
SENATE BILL 5768

State of Washington 62nd Legislature 2011 Regular Session

By Senators Haugen, Swecker, and McAuliffe

Read first time 02/10/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to creating the department of heritage, arts, and
2 culture; amending RCW 43.334.010, 43.334.020, 43.334.030, 43.334.050,
3 27.34.020, 27.34.060, 27.34.070, 27.34.220, 27.34.230, 27.34.330,
4 27.34.360, 27.34.365, 27.34.415, 40.14.020, 40.14.022, 40.14.025,
5 40.14.027, 40.14.030, 27.04.010, 43.07.363, 43.07.365, 43.07.370,
6 43.07.380, 43.330.094, 43.336.010, 43.330.092, 43.330.094, 43.07.129,
7 43.46.015, 43.46.030, 43.46.040, and 43.46.085; adding new sections to
8 chapter 43.334 RCW; creating a new section; and recodifying RCW
9 27.34.010, 27.34.020, 27.34.060, 27.34.070, 27.34.075, 27.34.080,
10 27.34.200, 27.34.220, 27.34.230, 27.34.240, 27.34.250, 27.34.260,
11 27.34.270, 27.34.280, 27.34.330, 27.34.350, 27.34.360, 27.34.365,
12 27.34.370, 27.34.375, 27.34.380, 27.34.390, 27.34.395, 27.34.400,
13 27.34.410, 27.34.415, 27.34.900, 27.34.906, 27.34.910, 27.34.915,
14 27.34.916, 43.336.010, 43.336.020, 43.336.030, 43.336.040, 43.336.050,
15 43.336.060, 43.336.900, 43.07.363, 43.07.365, 43.07.370, 43.07.380,
16 43.07.129, 43.330.090, 43.330.092, and 43.330.094.

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

18 **Sec. 1.** RCW 43.334.010 and 2005 c 333 s 1 are each amended to read
19 as follows:

1 (1) There is created a department of state government to be known
2 as the department of (~~archaeology and historic preservation~~)
3 heritage, arts, and culture. The department is vested with all powers
4 and duties transferred to it under this chapter and such other powers
5 and duties as may be authorized by law.

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

8 (a) "Department" means the department of (~~archaeology and historic~~
9 ~~preservation~~) heritage, arts, and culture.

10 (b) "Director" means the director of the department of
11 (~~archaeology and historic preservation~~) heritage, arts, and culture.

12 **Sec. 2.** RCW 43.334.020 and 2005 c 333 s 2 are each amended to read
13 as follows:

14 The executive head and appointing authority of the department is
15 the director, except as set forth in statute. The director shall serve
16 as the state historic preservation officer, and shall have a background
17 in program administration, an active involvement in historic
18 preservation, and a knowledge of the national, state, and local
19 preservation programs as they affect the state of Washington. The
20 director shall be appointed by the governor, with the consent of the
21 senate, and serves at the pleasure of the governor. The director shall
22 be paid a salary to be fixed by the governor in accordance with RCW
23 43.03.040. If a vacancy occurs in the position while the senate is not
24 in session, the governor shall make a temporary appointment until the
25 next meeting of the senate.

26 **Sec. 3.** RCW 43.334.030 and 2005 c 333 s 3 are each amended to read
27 as follows:

28 It is the intent of the legislature wherever possible to place the
29 internal affairs of the department under the control of the director in
30 order that the director may institute therein the flexible, alert, and
31 intelligent management of its business that changing contemporary
32 circumstances require. Therefore, whenever the director's authority is
33 not specifically limited by law, the director has complete charge and
34 supervisory powers over the department. The director may create such
35 administrative structures as the director considers appropriate, except
36 as otherwise specified by law. The director shall provide the support

1 and resources necessary to support the offices, boards, and commissions
2 created within, or transferred to, the department. The director may
3 employ such assistants and personnel as necessary for the general
4 administration of the department. This employment shall be in
5 accordance with the state civil service law, chapter 41.06 RCW, except
6 as otherwise provided.

7 **Sec. 4.** RCW 43.334.050 and 2005 c 333 s 5 are each amended to read
8 as follows:

9 (1) The director shall appoint a department deputy director, a
10 department personnel director, and assistant directors as needed to
11 administer the department. The deputy director is responsible for the
12 general supervision of the department in the absence or disability of
13 the director and, in case of a vacancy in the office of director, shall
14 continue in charge of the department until a successor is appointed and
15 qualified, or until the governor appoints an acting director.

16 (2) For the purposes of this chapter, the directors and executive
17 officers of any offices, boards, and commissions created within, or
18 transferred to, the department are deputy directors.

19 **Sec. 5.** RCW 27.34.020 and 2007 c 333 s 5 are each amended to read
20 as follows:

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter:

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

25 (2) "Department" means the department of (~~(archaeology and historic~~
26 ~~preservation)) heritage, arts, and culture.~~

27 (3) "Director" means the director of the department of
28 (~~(archaeology and historic preservation)) heritage, arts, and culture.~~

29 (4) "Federal act" means the national historic preservation act of
30 1966 (Public Law 89-655; 80 Stat. 915).

31 (5) "Heritage barn" means any large agricultural outbuilding used
32 to house animals, crops, or farm equipment, that is over fifty years
33 old and has been determined by the department to: (a) Be eligible for
34 listing on the Washington heritage register or the national register of
35 historic places; or (b) have been listed on a local historic register
36 and approved by the advisory council. In addition to barns, "heritage

1 barn" includes agricultural resources such as milk houses, sheds,
2 silos, or other outbuildings, that are historically associated with the
3 working life of the farm or ranch, if these outbuildings are on the
4 same property as a heritage barn.

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

6 (7) "Historic preservation" includes the protection,
7 rehabilitation, restoration, identification, scientific excavation, and
8 reconstruction of districts, sites, buildings, structures, and objects
9 significant in American and Washington state history, architecture,
10 archaeology, or culture.

11 (8) "Preservation officer" means the state historic preservation
12 officer as provided for in RCW 43.334.020.

13 (9) "Project" means programs leading to the preservation for public
14 benefit of historical properties, whether by state and local
15 governments or other public bodies, or private organizations or
16 individuals, including the acquisition of title or interests in, and
17 the development of, any district, site, building, structure, or object
18 that is significant in American and Washington state history,
19 architecture, archaeology, or culture, and property used in connection
20 therewith, or for its development.

21 (10) "State historical agencies" means the state historical
22 societies and the department.

23 (11) "State historical societies" means the Washington state
24 historical society and the eastern Washington state historical society.

25 (12) "Cultural resource management plan" means a comprehensive plan
26 which identifies and organizes information on the state of Washington's
27 historic, archaeological, and architectural resources into a set of
28 management criteria, and which is to be used for producing reliable
29 decisions, recommendations, and advice relative to the identification,
30 evaluation, and protection of these resources.

31 **Sec. 6.** RCW 27.34.060 and 1983 c 91 s 6 are each amended to read
32 as follows:

33 Each state historical society shall submit its budget requests to
34 the heritage council and the director for review and comment.

35 **Sec. 7.** RCW 27.34.070 and 2005 c 333 s 14 are each amended to read
36 as follows:

1 (1) Each state historical society is designated a trustee for the
2 state whose powers and duties are subject to review and approval by the
3 director and include but are not limited to the following:

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

7 (b) To operate state museums and assist and encourage cultural and
8 historical studies and museum interpretive efforts throughout the
9 state, including those sponsored by local historical organizations, and
10 city, county, and state agencies;

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

14 (d) To plan for and conduct celebrations of significant events in
15 the history of the state of Washington and to give assistance to and
16 coordinate with state agencies, local governments, and local historical
17 organizations in planning and conducting celebrations;

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

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

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

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

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

34 (j) To charge general or special admission fees to its museums or
35 exhibits and to waive or decrease such fees as it finds appropriate.

36 (2) All objects, sites, manuscripts, photographs, and all property,
37 including real property, now held or hereafter acquired by the state

1 historical societies shall be held by the societies in trust for the
2 use and benefit of the people of Washington state.

3 **Sec. 8.** RCW 27.34.220 and 1997 c 145 s 1 are each amended to read
4 as follows:

5 The director or the director's designee is authorized:

6 (1) To promulgate and maintain the Washington heritage register of
7 districts, sites, buildings, structures, and objects significant in
8 American or Washington state history, architecture, archaeology, and
9 culture, and to prepare comprehensive statewide historic surveys and
10 plans and research and evaluation of surveyed resources for the
11 preparation of nominations to the Washington heritage register and the
12 national register of historic places, in accordance with criteria
13 approved by the advisory council established under RCW 27.34.250 (as
14 recodified by this act). Nominations to the national register of
15 historic places shall comply with any standards and regulations
16 promulgated by the United States secretary of the interior for the
17 preservation, acquisition, and development of such properties.
18 Nominations to the Washington heritage register shall comply with rules
19 adopted under this chapter.

20 (2) To establish a program of matching grants-in-aid to public
21 agencies, public or private organizations, or individuals for projects
22 having as their purpose the preservation for public benefit of
23 properties that are significant in American or Washington state
24 history, architecture, archaeology, and culture.

25 (3) To promote historic preservation efforts throughout the state,
26 including private efforts and those of city, county, and state
27 agencies.

28 (4) To enhance the effectiveness of the state preservation program
29 through the initiation of legislation, the use of varied funding
30 sources, the creation of special purpose programs, and contact with
31 state, county, and city officials, civic groups, and professionals.

32 (5) To spend funds, subject to legislative appropriation and the
33 availability of funds, where necessary to assist the Indian tribes of
34 Washington state in removing prehistoric human remains for scientific
35 examination and reburial, if the human remains have been unearthed
36 inadvertently or through vandalism and if no other public agency is
37 legally responsible for their preservation.

1 (6) To consult with the governor and the legislature on issues
2 relating to the conservation of the man-made environment and their
3 impact on the well-being of the state and its citizens.

4 (7) To charge fees for professional and clerical services provided
5 by the ((office)) department.

6 (8) To adopt such rules, in accordance with chapter 34.05 RCW, as
7 are necessary to carry out RCW 27.34.200 through 27.34.280 (as
8 recodified by this act).

9 **Sec. 9.** RCW 27.34.230 and 2005 c 333 s 15 are each amended to read
10 as follows:

11 The director or the director's designee shall:

12 (1) Receive, administer, and disburse such gifts, grants, and
13 endowments from private sources as may be made in trust or otherwise
14 for the purposes of RCW 27.34.200 ((~~through~~)) and 27.34.220 (as
15 recodified by this act) or the federal act; and

16 (2) Develop and implement a cultural resource management plan.

17 **Sec. 10.** RCW 27.34.330 and 2006 c 371 s 232 are each amended to
18 read as follows:

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

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

20 **Sec. 11.** RCW 27.34.360 and 2005 c 391 s 2 are each amended to read
21 as follows:

22 (1) A women's history consortium is created with the ((~~Washington~~
23 ~~state historical society~~)) department as the managing agency. To
24 ensure geographic, demographic, and subject matter diversity, the
25 consortium shall be managed by a board of advisors representing a range
26 of perspectives, including private citizens, business, labor,
27 historical societies, colleges and universities, educators, tribes, and
28 public officials. Appointment of the board of advisors must be
29 completed by September 30, 2005.

30 (2) The consortium is attached to the ((~~Washington state historical~~
31 ~~society~~)) department as the managing agency. Accordingly, the
32 ((~~agency~~)) department shall:

33 (a) Direct and supervise the budgeting, recordkeeping, recording,
34 and related administrative and clerical functions of the consortium;

35 (b) Include the consortium's budgetary requests in the
36 ((~~society's~~)) department's departmental budget;

- 1 (c) Collect all nonappropriated revenues for the consortium and
2 deposit them in the proper fund or account;
- 3 (d) Provide staff support for the consortium;
- 4 (e) Print and disseminate for the consortium any required notices,
5 rules, or orders adopted by the consortium; and
- 6 (f) Allocate or otherwise provide office space for the consortium
7 as may be necessary.

8 **Sec. 12.** RCW 27.34.365 and 2010 1st sp.s. c 7 s 124 are each
9 amended to read as follows:

10 The board of advisors shall consist of fifteen members. The
11 director (~~(of the state historical society)~~) shall appoint eleven
12 members to the board of advisors. Two members of the senate, one each
13 representing the two largest caucuses of the senate, shall be appointed
14 by the president of the senate, and two members of the house of
15 representatives, one each representing the two largest caucuses of the
16 house of representatives, shall be appointed by the speaker of the
17 house of representatives.

18 The women's history consortium board of advisors may meet no more
19 than two times per calendar year. If state funds are not available for
20 travel, the board may meet on a voluntary basis at members' expense.

21 **Sec. 13.** RCW 27.34.415 and 2008 c 275 s 6 are each amended to read
22 as follows:

23 The department (~~(of archaeology and historic preservation)~~) shall
24 develop and maintain a centralized database and geographic information
25 systems spatial layer of all known cemeteries and known sites of
26 burials of human remains in Washington state. The information in the
27 database is subject to public disclosure, except as provided in RCW
28 42.56.300; exempt information is available by confidentiality agreement
29 to federal, state, and local agencies for purposes of environmental
30 review, and to tribes in order to participate in environmental review,
31 protect their ancestors, and perpetuate their cultures.

32 Information provided to state and local agencies under this section
33 is subject to public disclosure, except as provided in RCW 42.56.300.

34 **Sec. 14.** RCW 40.14.020 and 2002 c 358 s 4 are each amended to read
35 as follows:

1 All public records shall be and remain the property of the state of
2 Washington. They shall be delivered by outgoing officials and
3 employees to their successors and shall be preserved, stored,
4 transferred, destroyed or disposed of, and otherwise managed, only in
5 accordance with the provisions of this chapter. In order to insure the
6 proper management and safeguarding of public records, the division of
7 archives and records management is established in the (~~office of the~~
8 ~~secretary of state~~) department of heritage, arts, and culture. The
9 state archivist, who shall administer the division and have reasonable
10 access to all public records, wherever kept, for purposes of
11 information, surveying, or cataloguing, shall undertake the following
12 functions, duties, and responsibilities:

13 (1) To manage the archives of the state of Washington;

14 (2) To centralize the archives of the state of Washington, to make
15 them available for reference and scholarship, and to insure their
16 proper preservation;

17 (3) To inspect, inventory, catalog, and arrange retention and
18 transfer schedules on all record files of all state departments and
19 other agencies of state government;

20 (4) To insure the maintenance and security of all state public
21 records and to establish safeguards against unauthorized removal or
22 destruction;

23 (5) To establish and operate such state record centers as may from
24 time to time be authorized by appropriation, for the purpose of
25 preserving, servicing, screening and protecting all state public
26 records which must be preserved temporarily or permanently, but which
27 need not be retained in office space and equipment;

28 (6) To adopt rules under chapter 34.05 RCW:

29 (a) Setting standards for the durability and permanence of public
30 records maintained by state and local agencies;

31 (b) Governing procedures for the creation, maintenance,
32 transmission, cataloging, indexing, storage, or reproduction of
33 photographic, optical, electronic, or other images of public documents
34 or records in a manner consistent with current standards, policies, and
35 procedures of the department of information services for the
36 acquisition of information technology;

37 (c) Governing the accuracy and durability of, and facilitating

1 access to, photographic, optical, electronic, or other images used as
2 public records; or

3 (d) To carry out any other provision of this chapter;

4 (7) To gather and disseminate to interested agencies information on
5 all phases of records management and current practices, methods,
6 procedures, techniques, and devices for efficient and economical
7 management and preservation of records;

8 (8) To operate a central microfilming bureau which will microfilm,
9 at cost, records approved for filming by the head of the office of
10 origin and the archivist; to approve microfilming projects undertaken
11 by state departments and all other agencies of state government; and to
12 maintain proper standards for this work;

13 (9) To maintain necessary facilities for the review of records
14 approved for destruction and for their economical disposition by sale
15 or burning; directly to supervise such destruction of public records as
16 shall be authorized by the terms of this chapter;

17 (10) To assist and train state and local agencies in the proper
18 methods of creating, maintaining, cataloging, indexing, transmitting,
19 storing, and reproducing photographic, optical, electronic, or other
20 images used as public records;

21 (11) To solicit, accept, and expend donations (~~as provided in RCW~~
22 ~~43.07.037~~) for the purpose of the archive program. These purposes
23 include, but are not limited to, acquisition, accession,
24 interpretation, and display of archival materials. Donations that do
25 not meet the criteria of the archive program may not be accepted.

26 **Sec. 15.** RCW 40.14.022 and 2003 c 163 s 2 are each amended to read
27 as follows:

28 The imaging account is created in the custody of the state
29 treasurer. All receipts collected under RCW 40.14.020(8) for contract
30 imaging, micrographics, reproduction, and duplication services provided
31 by the division of archives and records management must be deposited
32 into the account, and expenditures from the account may be used only
33 for these purposes. Only the (~~secretary of state~~) director of the
34 department of heritage, arts, and culture or the (~~secretary's~~)
35 director's designee may authorize expenditures from the account. The
36 account is subject to allotment procedures under chapter 43.88 RCW, but
37 an appropriation is not required for expenditures.

1 **Sec. 16.** RCW 40.14.025 and 2003 c 163 s 1 are each amended to read
2 as follows:

3 (1) The (~~secretary of state~~) director of the department of
4 heritage, arts, and culture and the director of financial management
5 shall jointly establish a procedure and formula for allocating the
6 costs of services provided by the division of archives and records
7 management to state agencies. The total amount allotted for services
8 to state agencies shall not exceed the appropriation to the archives
9 and records management account during any allotment period.

10 (2) There is created the archives and records management account in
11 the state treasury which shall consist of all fees and charges
12 collected under this section. The account shall be appropriated
13 exclusively for the payment of costs and expenses incurred in the
14 operation of the division of archives and records management as
15 specified by law.

16 **Sec. 17.** RCW 40.14.027 and 2003 c 163 s 4 are each amended to read
17 as follows:

18 State agencies shall collect a surcharge of twenty dollars from the
19 judgment debtor upon the satisfaction of a warrant filed in superior
20 court for unpaid taxes or liabilities. The surcharge is imposed on the
21 judgment debtor in the form of a penalty in addition to the filing fee
22 provided in RCW 36.18.012(10). The surcharge revenue shall be
23 transmitted to the state treasurer for deposit in the archives and
24 records management account.

25 Surcharge revenue deposited in the local government archives
26 account under RCW 40.14.024 shall be expended by the secretary of state
27 exclusively for disaster recovery, essential records protection
28 services, and records management training for local government agencies
29 by the division of archives and records management. The (~~secretary of~~
30 ~~state~~) director of the department of heritage, arts, and culture
31 shall, with local government representatives, establish a committee to
32 advise the state archivist on the local government archives and records
33 management program.

34 **Sec. 18.** RCW 40.14.030 and 2003 c 305 s 1 are each amended to read
35 as follows:

36 (1) All public records, not required in the current operation of

1 the office where they are made or kept, and all records of every
2 agency, commission, committee, or any other activity of state
3 government which may be abolished or discontinued, shall be transferred
4 to the state archives so that the valuable historical records of the
5 state may be centralized, made more widely available, and insured
6 permanent preservation: PROVIDED, That this section shall have no
7 application to public records approved for destruction under the
8 subsequent provisions of this chapter.

9 When so transferred, copies of the public records concerned shall
10 be made and certified by the archivist, which certification shall have
11 the same force and effect as though made by the officer originally in
12 charge of them. Fees may be charged to cover the cost of reproduction.
13 In turning over the archives of his office, the officer in charge
14 thereof, or his successor, thereby loses none of his rights of access
15 to them, without charge, whenever necessary.

16 (2) Records that are confidential, privileged, or exempt from
17 public disclosure under state or federal law while in the possession of
18 the originating agency, commission, board, committee, or other entity
19 of state or local government retain their confidential, privileged, or
20 exempt status after transfer to the state archives unless the
21 archivist, with the concurrence of the originating jurisdiction,
22 determines that the records must be made accessible to the public
23 according to proper and reasonable rules adopted by the (~~secretary of~~
24 ~~state~~) director of the department of heritage, arts, and culture, in
25 which case the records may be open to inspection and available for
26 copying after the expiration of seventy-five years from creation of the
27 record. If the originating jurisdiction is no longer in existence, the
28 archivist shall make the determination of availability according to
29 such rules. If, while in the possession of the originating agency,
30 commission, board, committee, or other entity, any record is determined
31 to be confidential, privileged, or exempt from public disclosure under
32 state or federal law for a period of less than seventy-five years, then
33 the record, with the concurrence of the originating jurisdiction, must
34 be made accessible to the public upon the expiration of the shorter
35 period of time according to proper and reasonable rules adopted by the
36 (~~secretary of state~~) director of the department of heritage, arts,
37 and culture.

1 **Sec. 19.** RCW 27.04.010 and 2002 c 342 s 2 are each amended to read
2 as follows:

3 (1) There shall be a state library within the (~~office of the~~
4 ~~secretary of state~~) department of heritage, arts, and culture, and a
5 state librarian to serve as its chief executive officer.

6 (2) The (~~secretary of state~~) director of the department of
7 heritage, arts, and culture may make such rules under chapter 34.05 RCW
8 as necessary and proper to carry out the purposes of this chapter.

9 (3) The (~~secretary of state~~) director of the department of
10 heritage, arts, and culture shall appoint a state librarian who shall
11 serve at the pleasure of the (~~secretary of state~~) director.

12 **Sec. 20.** RCW 43.07.363 and 2008 c 222 s 10 are each amended to
13 read as follows:

14 (1) The (~~secretary of state~~) director of the department of
15 heritage, arts, and culture shall administer and conduct a program to
16 record and document oral histories of current and former members and
17 staff of the Washington state executive and judicial branches, the
18 state's congressional delegation, and other citizens who have
19 participated in the political history of Washington state. The program
20 shall be called the Washington state legacy project. The (~~secretary~~
21 ~~of state~~) director of the department of heritage, arts, and culture
22 may contract with independent oral historians or history departments of
23 the state universities to interview and record oral histories. The
24 manuscripts and publications shall be made available for research and
25 reference through the state archives. The transcripts, together with
26 current and historical photographs, may be published for distribution
27 to libraries and the general public, and be posted on the (~~secretary~~
28 ~~of state's~~) department of heritage, arts, and culture's web site.

29 (2) The Washington state legacy project may act as a principal
30 repository for oral histories related to community, family, and other
31 various projects.

32 (3) The oral history of a person who occupied positions, or was
33 staff to a person who occupied positions, in more than one branch of
34 government shall be conducted by the entity authorized to conduct oral
35 histories of persons in the position last held by the person who is the
36 subject of the oral history. However, the person being interviewed may
37 select the entity he or she wishes to prepare his or her oral history.

1 (4) The (~~secretary of state~~) director of the department of
2 heritage, arts, and culture may create a Washington state legacy
3 project advisory council to provide advice and guidance on matters
4 pertaining to operating the legacy project. The (~~secretary of state~~)
5 director of the department of heritage, arts, and culture may not
6 compensate members of the legacy project advisory council but may
7 provide reimbursement to members for expenses that are incurred in the
8 conduct of their official duties.

9 **Sec. 21.** RCW 43.07.365 and 2008 c 222 s 11 are each amended to
10 read as follows:

11 The (~~secretary of state~~) director of the department of heritage,
12 arts, and culture may fund Washington state legacy project activities
13 through donations (~~as provided in RCW 43.07.037~~). The activities may
14 include, but not be limited to, conducting interviews, preparing and
15 indexing transcripts, publishing transcripts and photographs, and
16 presenting displays and programs. Donations that do not meet the
17 criteria of the Washington state legacy project may not be accepted.
18 The (~~secretary of state~~) director of the department of heritage,
19 arts, and culture shall adopt rules necessary to implement this
20 section.

21 **Sec. 22.** RCW 43.07.370 and 2009 c 71 s 1 are each amended to read
22 as follows:

23 (1) The (~~secretary of state~~) director of the department of
24 heritage, arts, and culture may solicit and accept gifts, grants,
25 conveyances, bequests, and devises of real or personal property, or
26 both, in trust or otherwise, and sell, lease, exchange, invest, or
27 expend these donations or the proceeds, rents, profits, and income from
28 the donations except as limited by the donor's terms.

29 (2) Moneys received under this section may be used only for the
30 following purposes:

31 (a) Conducting the Washington state legacy project;

32 (b) Archival activities;

33 (c) Washington state library activities;

34 (d) Development, construction, and operation of the Washington
35 state heritage center; and

36 (e) Donation of Washington state flags.

1 (3)(a) Moneys received under subsection (2)(a) through (c) of this
2 section must be deposited in the Washington state legacy project, state
3 library, and archives account established in RCW 43.07.380 (as
4 recodified by this act).

5 (b) Moneys received under subsection (2)(d) of this section must be
6 deposited in the Washington state heritage center account created in
7 RCW 43.07.129 (as recodified by this act).

8 (c) Moneys received under subsection (2)(e) of this section must be
9 deposited in the Washington state flag account created in RCW
10 43.07.388.

11 (4) The (~~secretary of state~~) director of the department of
12 heritage, arts, and culture shall adopt rules to govern and protect the
13 receipt and expenditure of the proceeds.

14 **Sec. 23.** RCW 43.07.380 and 2008 c 222 s 13 are each amended to
15 read as follows:

16 The Washington state legacy project, state library, and archives
17 account is created in the custody of the state treasurer. All moneys
18 received under RCW 43.07.370 (as recodified by this act) must be
19 deposited in the account. Expenditures from the account may be made
20 only for the purposes of the Washington state legacy project under RCW
21 43.07.363 (as recodified by this act), archives program under RCW
22 40.14.020, and the state library program under chapter 27.04 RCW. Only
23 the (~~secretary of state~~) director of the department of heritage,
24 arts, and culture or the (~~secretary of state's~~) director's designee
25 may authorize expenditures from the account. An appropriation is not
26 required for expenditures, but the account is subject to allotment
27 procedures under chapter 43.88 RCW.

28 **Sec. 24.** RCW 43.330.094 and 2009 c 565 s 6 are each amended to
29 read as follows:

30 The tourism development and promotion account is created in the
31 state treasury. All receipts from RCW 36.102.060(10) must be deposited
32 into the account. Moneys in the account may be spent only after
33 appropriation. Expenditures from the account may be used by the
34 (~~department of commerce~~) department of heritage, arts, and culture
35 only for the purposes of expanding and promoting the tourism industry
36 in the state of Washington.

1 **Sec. 25.** RCW 43.336.010 and 2009 c 565 s 42 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

- 5 (1) "Commission" means the Washington tourism commission.
- 6 (2) "Department" means the department of (~~commerce~~) heritage,
7 arts, and culture.
- 8 (3) "Director" means the director of the department.
- 9 (4) "Executive director" means the executive director of the
10 commission.

11 **Sec. 26.** RCW 43.330.092 and 2009 c 565 s 5 are each amended to
12 read as follows:

13 The film and video promotion account is created in the state
14 treasury. All revenue received for film and video promotion purposes
15 under RCW 43.330.090(~~(+2)~~) (3)(b) (as recodified by this act) and all
16 receipts from RCW 36.102.060(14) must be deposited into the account.
17 Moneys in the account may be spent only after appropriation.
18 Expenditures from the account may be used by the department (~~of~~
19 ~~commerce~~) only for the purposes of promotion of the film and video
20 production industry in the state of Washington.

21 **Sec. 27.** RCW 43.330.094 and 2009 c 565 s 6 are each amended to
22 read as follows:

23 The tourism development and promotion account is created in the
24 state treasury. All receipts from RCW 36.102.060(10) must be deposited
25 into the account. Moneys in the account may be spent only after
26 appropriation. Expenditures from the account may be used by the
27 department (~~of—commerce~~) only for the purposes of expanding and
28 promoting the tourism industry in the state of Washington.

29 **Sec. 28.** RCW 43.07.129 and 2007 c 523 s 4 are each amended to read
30 as follows:

31 The Washington state heritage center account is created in the
32 custody of the state treasurer. All moneys received under RCW
33 36.18.010(11) and 43.07.128 must be deposited in the account.
34 Expenditures from the account may be made only for the following
35 purposes:

1 (1) Payment of the certificate of participation issued for the
2 Washington state heritage center;

3 (2) Capital maintenance of the Washington state heritage center;
4 and

5 (3) Program operations that serve the public, relate to the
6 collections and exhibits housed in the Washington state heritage
7 center, or fulfill the missions of the state archives, state library,
8 and capital museum.

9 Only the (~~secretary of state~~) director of the department of
10 heritage, arts, and culture or the (~~secretary of state's~~) director's
11 designee may authorize expenditures from the account. An appropriation
12 is not required for expenditures, but the account is subject to
13 allotment procedures under chapter 43.88 RCW.

14 **Sec. 29.** RCW 43.46.015 and 1999 c 241 s 1 are each amended to read
15 as follows:

16 There is established a Washington state arts commission within the
17 department of heritage, arts, and culture. The commission consists of
18 nineteen members appointed by the governor (~~and four members of the~~
19 ~~legislature, one from each caucus in the senate and appointed by the~~
20 ~~president of the senate and one from each caucus in the house of~~
21 ~~representatives and appointed by the speaker of the house of~~
22 ~~representatives)). The governor shall appoint citizens representing
23 the various disciplines within the visual, performing and literary
24 arts, and other citizens active in the arts community. The governor
25 shall consider nominations for membership from individuals actively
26 involved in cultural, state or community organizations. The governor
27 shall also consider geographical distribution of the membership in the
28 appointment of new members.~~

29 **Sec. 30.** RCW 43.46.030 and 1985 c 317 s 3 are each amended to read
30 as follows:

31 Members shall serve three year terms. (~~A legislative member shall~~
32 ~~serve as long as he or she is a member of the legislative body from~~
33 ~~which he or she was appointed.)) Each member will continue to serve
34 until a successor is appointed. Vacancies shall be filled by
35 appointment for the remainder of the unexpired term.~~

1 **Sec. 31.** RCW 43.46.040 and 1985 c 317 s 4 are each amended to read
2 as follows:

3 Members of the commission shall serve without compensation.
4 (~~However, nonlegislative~~) Members shall be reimbursed for travel
5 expenses as provided in RCW 43.03.050 and 43.03.060 (~~and legislative~~
6 ~~members shall be reimbursed as provided in RCW 44.04.120~~). The
7 commission shall organize, elect a chairperson annually, and adopt
8 rules pursuant to chapter 34.05 RCW. A majority of its members
9 constitute a quorum. Any action as defined in RCW 42.30.020(3) shall
10 be taken only at a meeting at which a quorum is present.

11 **Sec. 32.** RCW 43.46.085 and 2007 c 128 s 3 are each amended to read
12 as follows:

13 The poet laureate account is created in the custody of the state
14 treasurer. All receipts from gifts, grants, or endowments from public
15 or private sources must be deposited into the account. Expenditures
16 from the account may only be used for the poet laureate program. Only
17 the (~~executive director of the commission or the executive~~) director
18 of the department of heritage, arts, and culture or the director's
19 designee may authorize expenditures from the account. The account is
20 subject to allotment procedures under chapter 43.88 RCW, but an
21 appropriation is not required for expenditures.

22 NEW SECTION. **Sec. 33.** The following sections are recodified as
23 sections in chapter 43.334 RCW: RCW 27.34.010, 27.34.020, 27.34.060,
24 27.34.070, 27.34.075, 27.34.080, 27.34.200, 27.34.220, 27.34.230,
25 27.34.240, 27.34.250, 27.34.260, 27.34.270, 27.34.280, 27.34.330,
26 27.34.350, 27.34.360, 27.34.365, 27.34.370, 27.34.375, 27.34.380,
27 27.34.390, 27.34.395, 27.34.400, 27.34.410, 27.34.415, 27.34.900,
28 27.34.906, 27.34.910, 27.34.915, 27.34.916, 43.336.010, 43.336.020,
29 43.336.030, 43.336.040, 43.336.050, 43.336.060, 43.336.900, 43.07.363,
30 43.07.365, 43.07.370, 43.07.380, 43.07.129, 43.330.090, 43.330.092, and
31 43.330.094.

32 NEW SECTION. **Sec. 34.** A new section is added to chapter 43.334
33 RCW to read as follows:

34 (1) All powers, duties, and functions of the secretary of state
35 pertaining to the preservation and destruction of public records under

1 chapter 40.14 RCW are transferred to the department of heritage, arts,
2 and culture. All references to the director or the secretary of state
3 in the Revised Code of Washington shall be construed to mean the
4 director or the department of heritage, arts, and culture when
5 referring to the functions transferred in this section.

6 (2)(a) All reports, documents, surveys, books, records, files,
7 papers, or written material in the possession of the secretary of state
8 pertaining to the powers, functions, and duties transferred shall be
9 delivered to the custody of the department of heritage, arts, and
10 culture. All cabinets, furniture, office equipment, motor vehicles,
11 and other tangible property employed by the secretary of state in
12 carrying out the powers, functions, and duties transferred shall be
13 made available to the department of heritage, arts, and culture. All
14 funds, credits, or other assets held in connection with the powers,
15 functions, and duties transferred shall be assigned to the department
16 of heritage, arts, and culture.

17 (b) Any appropriations made to the secretary of state for carrying
18 out the powers, functions, and duties transferred shall, on the
19 effective date of this section, be transferred and credited to the
20 department of heritage, arts, and culture.

21 (c) Whenever any question arises as to the transfer of any
22 personnel, funds, books, documents, records, papers, files, equipment,
23 or other tangible property used or held in the exercise of the powers
24 and the performance of the duties and functions transferred, the
25 director of financial management shall make a determination as to the
26 proper allocation and certify the same to the state agencies concerned.

27 (3) All employees of the secretary of state engaged in performing
28 the powers, functions, and duties transferred are transferred to the
29 jurisdiction of the department of heritage, arts, and culture. All
30 employees classified under chapter 41.06 RCW, the state civil service
31 law, are assigned to the department of heritage, arts, and culture to
32 perform their usual duties upon the same terms as formerly, without any
33 loss of rights, subject to any action that may be appropriate
34 thereafter in accordance with the laws and rules governing state civil
35 service.

36 (4) All rules and all pending business before the secretary of
37 state pertaining to the powers, functions, and duties transferred shall
38 be continued and acted upon by the department of heritage, arts, and

1 culture. All existing contracts and obligations shall remain in full
2 force and shall be performed by the department of heritage, arts, and
3 culture.

4 (5) The transfer of the powers, duties, functions, and personnel of
5 the secretary of state shall not affect the validity of any act
6 performed before the effective date of this section.

7 (6) If apportionments of budgeted funds are required because of the
8 transfers directed by this section, the director of financial
9 management shall certify the apportionments to the agencies affected,
10 the state auditor, and the state treasurer. Each of these shall make
11 the appropriate transfer and adjustments in funds and appropriation
12 accounts and equipment records in accordance with the certification.

13 (7) All classified employees of the secretary of state assigned to
14 the division of archives and records management whose positions are
15 within an existing bargaining unit description at the division of
16 archives and records management shall become a part of the existing
17 bargaining unit at the division of archives and records management and
18 shall be considered an appropriate inclusion or modification of the
19 existing bargaining unit under the provisions of chapter 41.80 RCW.

20 NEW SECTION. **Sec. 35.** A new section is added to chapter 43.334
21 RCW to read as follows:

22 (1) All powers, duties, and functions of the department of commerce
23 pertaining to the Washington tourism commission are transferred to the
24 department of heritage, arts, and culture. All references to the
25 director or the department of commerce in the Revised Code of
26 Washington shall be construed to mean the director or the department of
27 heritage, arts, and culture when referring to the functions transferred
28 in this section.

29 (2)(a) All reports, documents, surveys, books, records, files,
30 papers, or written material in the possession of the department of
31 commerce pertaining to the powers, functions, and duties transferred
32 shall be delivered to the custody of the department of heritage, arts,
33 and culture. All cabinets, furniture, office equipment, motor
34 vehicles, and other tangible property employed by the department of
35 commerce in carrying out the powers, functions, and duties transferred
36 shall be made available to the department of heritage, arts, and

1 culture. All funds, credits, or other assets held in connection with
2 the powers, functions, and duties transferred shall be assigned to the
3 department of heritage, arts, and culture.

4 (b) Any appropriations made to the department of commerce for
5 carrying out the powers, functions, and duties transferred shall, on
6 the effective date of this section, be transferred and credited to the
7 department of heritage, arts, and culture.

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

14 (3) All employees of the department of commerce engaged in
15 performing the powers, functions, and duties transferred are
16 transferred to the jurisdiction of the department of heritage, arts,
17 and culture. All employees classified under chapter 41.06 RCW, the
18 state civil service law, are assigned to the department of heritage,
19 arts, and culture to perform their usual duties upon the same terms as
20 formerly, without any loss of rights, subject to any action that may be
21 appropriate thereafter in accordance with the laws and rules governing
22 state civil service.

23 (4) All rules and all pending business before the department of
24 commerce pertaining to the powers, functions, and duties transferred
25 shall be continued and acted upon by the department of heritage, arts,
26 and culture. All existing contracts and obligations shall remain in
27 full force and shall be performed by the department of heritage, arts,
28 and culture.

29 (5) The transfer of the powers, duties, functions, and personnel of
30 the department of commerce shall not affect the validity of any act
31 performed before the effective date of this section.

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

1 (7) All classified employees of the department of commerce assigned
2 to the Washington tourism commission under this section whose positions
3 are within an existing bargaining unit description at the Washington
4 tourism commission shall become a part of the existing bargaining unit
5 at the Washington tourism commission and shall be considered an
6 appropriate inclusion or modification of the existing bargaining unit
7 under the provisions of chapter 41.80 RCW.

8 NEW SECTION. **Sec. 36.** A new section is added to chapter 43.334
9 RCW to read as follows:

10 (1) All powers, duties, and functions of the secretary of state
11 pertaining to the Washington state legacy project under RCW 43.07.363
12 through 43.07.368 (as recodified by this act) are transferred to the
13 department of heritage, arts, and culture. All references to the
14 director or the secretary of state in the Revised Code of Washington
15 shall be construed to mean the director or the department of heritage,
16 arts, and culture when referring to the functions transferred in this
17 section.

18 (2)(a) All reports, documents, surveys, books, records, files,
19 papers, or written material in the possession of the secretary of state
20 pertaining to the powers, functions, and duties transferred shall be
21 delivered to the custody of the department of heritage, arts, and
22 culture. All cabinets, furniture, office equipment, motor vehicles,
23 and other tangible property employed by the secretary of state in
24 carrying out the powers, functions, and duties transferred shall be
25 made available to the department of heritage, arts, and culture. All
26 funds, credits, or other assets held in connection with the powers,
27 functions, and duties transferred shall be assigned to the department
28 of heritage, arts, and culture.

29 (b) Any appropriations made to the secretary of state for carrying
30 out the powers, functions, and duties transferred shall, on the
31 effective date of this section, be transferred and credited to the
32 department of heritage, arts, and culture.

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

1 director of financial management shall make a determination as to the
2 proper allocation and certify the same to the state agencies concerned.

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

12 (4) All rules and all pending business before the secretary of
13 state pertaining to the powers, functions, and duties transferred shall
14 be continued and acted upon by the department of heritage, arts, and
15 culture. All existing contracts and obligations shall remain in full
16 force and shall be performed by the department of heritage, arts, and
17 culture.

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

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

27 (7) All classified employees of the secretary of state assigned to
28 the Washington state legacy project under this section whose positions
29 are within an existing bargaining unit description at the Washington
30 state legacy project shall become a part of the existing bargaining
31 unit at the Washington state legacy project and shall be considered an
32 appropriate inclusion or modification of the existing bargaining unit
33 under the provisions of chapter 41.80 RCW.

34 NEW SECTION. **Sec. 37.** The code reviser must develop and submit
35 legislation for the 2012 legislative session that updates and corrects

1 statutes to reflect the changes in this act.

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