

# FINAL BILL REPORT

## SHB 2724

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Synopsis as Enacted

**Brief Description:** Exempting information concerning archaeological resources and traditional cultural places from public disclosure.

**Sponsors:** House Committee on Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Ortiz-Self, Appleton, Walkinshaw, Sawyer, Ryu, Roberts, Stanford and Wylie).

**House Committee on Community Development, Housing & Tribal Affairs**  
**Senate Committee on Governmental Operations**

### **Background:**

#### Department of Archaeology and Historic Preservation.

The Department of Archaeology and Historic Preservation (DAHP) maintains a complete inventory of archaeological resource sites and collections within the state. Archaeological resources include historic and prehistoric objects, structures, artifacts, implements, and locations pertaining, but not limited to, American Indian or aboriginal sites.

The DAHP gathers information about archeological sites and resources by conducting studies and evaluations on public lands and through investigation with permission on private lands. The DAHP also receives information about archaeological sites and resources from professional archaeologists practicing in the state.

The DAHP also maintains the Washington Heritage Register (Register) that contains an official listing of all documented sites and property in the state that have historical, architectural, archeological, engineering, and cultural significance. Listing on the Register does not have a legal effect, but can be used to identify resources that may be affected by certain state or local actions.

#### Archaeological Resource Protections.

The disturbance of an archeological resource or site on public or private lands requires a written permit issued by the DAHP. The removal, excavation, or damage of an archeological resource without a permit is a class C felony.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The DAHP must notify an affected tribe when potential Indian skeletal remains are discovered within the tribe's usual and accustomed areas. The intentional removal of an Indian grave or glyphic record is a class C felony.

#### Agency Information Sharing.

The DAHP is responsible for sharing the information in its archaeological resource inventory with state, federal, and private construction agencies regarding the possible impact that construction activities may have on archaeological resources. The DAHP manages its inventory through a geographic information system database that helps agencies plan around archaeological and historic sites to avoid protected resources. In order to protect against the abuse of such information from potential looting or vandalism, the DAHP requires agencies to enter into a memorandum of understanding in order to access the database. The DAHP also enters into such agreements with tribes to access, as well as share, archaeological information for purposes of resource protection.

The DAHP shares information with agencies that are required to consider the impact of activities on archaeological, historical, or cultural resources. For example, regulations under the State Environmental Protection Act (SEPA) require agencies to consider cultural and historic resource impacts when determining whether any proposed major action would have a significant adverse effect on the environment.

Regulations under the Forest Practices Act require the Department of Natural Resources to notify tribes when it receives an application for timber-related activities and other forest practices in an area where the tribe has an identified cultural resource. In addition, watershed analyses that determine the cumulative effects of forest practices must assess the impact on cultural resources within the area.

Finally, local shoreline master programs that regulate land use activities, pursuant to the Shoreline Management Act, must include policies to protect and mitigate damage to historic, archeological, and cultural resources, including notice provided to the DAHP and affected tribes.

#### Public Records Act.

The Public Records Act (PRA) requires that all state and local government agencies make all records available for public inspection and copying, unless they fall within certain statutory exemptions. Exemptions are narrowly construed in order to promote public access to government information.

Certain exemptions are made for the purpose of protecting archaeological sites from looting and depredation. One exemption applies to records and maps identifying the location of archaeological sites. Another exemption applies to records and maps that identify archaeological or historic sites or traditional sites used by a tribe that are obtained through a watershed analysis.

#### **Summary:**

An exemption from the PRA is created for any site forms, reports, specific fields, and tables relating to site form data within a database, and geographic information systems spatial

layers, that are related to historical archaeological resources, archeological resources, or traditional cultural places obtained by a state agency or local government or shared between a state agency, local government, or tribal government.

A local government or state agency must respond to a public records request by a property owner for archaeological or cultural information that is exempt from disclosure by providing instructions for how the owner may contact the DAHP to obtain locality information on archaeological and cultural resources.

**Votes on Final Passage:**

House	97	0	
Senate	47	2	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 12, 2014