

## CHAPTER 195

[Substitute House Bill No. 70]

## OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION—PRESERVATION OFFICER—ADVISORY COUNCIL

AN ACT Relating to state government; amending section 2, chapter 134, Laws of 1975 1st ex. sess. as amended by section 1, chapter 82, Laws of 1975-'76 2nd ex. sess. and RCW 27.53.020; amending section 3, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.030; amending section 6, chapter 134, Laws of 1975 1st ex. sess. as amended by section 2, chapter 82, Laws of 1975-'76 2nd ex. sess. and RCW 27.53.060; amending section 8, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.080; amending section 9, chapter 134, Laws of 1975 1st ex. sess. as amended by section 4, chapter 82, Laws of 1975-'76 2nd ex. sess. and RCW 27.53.090; adding a new chapter to Title 43 RCW; creating new sections; repealing section 5, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.050; repealing section 1, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.750; repealing section 2, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.760; repealing section 3, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.770; repealing section 4, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.780; repealing section 5, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.790; repealing section 6, chapter 19, Laws of 1967 ex. sess., section 58, chapter 75, Laws of 1977 and RCW 43.51.800; repealing section 7, chapter 19, Laws of 1967 ex. sess., section 117, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.51.810; repealing section 8, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.820; and providing penalties.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Section 1. The legislature hereby finds that the promotion, enhancement, perpetuation, and use of structures, sites, districts, buildings, and objects of historic, archaeological, architectural, and cultural significance is desirable in the interest of the public pride and general welfare of the people of the state; and the legislature further finds that the economic, cultural, and aesthetic standing of the state can be maintained and enhanced by protecting the heritage of the state and by preventing the destruction or defacement of these assets; therefore, it is hereby declared by the legislature to be the public policy and in the public interest of the state to designate, preserve, protect, enhance, and perpetuate those structures, sites, districts, buildings, and objects which reflect outstanding elements of the state's historic, archaeological, architectural, or cultural heritage, for the inspiration and enrichment of the citizens of the state.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout this chapter.

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

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

(3) "Preservation officer" means the state historic preservation officer as provided for in section 4 of this 1977 amendatory act, as now or hereafter amended.

(4) "Office" means the office of archaeology and historic preservation as created in section 3 of this 1977 amendatory act, as now or hereafter amended.

(5) "Department" means the department of parks and recreation.

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

(7) "Council" means the advisory council on historic preservation.

NEW SECTION. Sec. 3. There is hereby established the office of archaeology and historic preservation. All powers, duties, and functions relating to the office vested in the parks and recreation commission and the director of parks and recreation are transferred to the office.

NEW SECTION. Sec. 4. The governor shall appoint the preservation officer, with the consent of the senate, and set the salary for the position. The preservation officer shall have a background in program administration, an active involvement in historic preservation, and a knowledge of the national, state, and local preservation programs as they affect the state of Washington.

NEW SECTION. Sec. 5. The preservation officer shall employ such personnel and prescribe their duties as may be necessary to implement the purposes of this chapter. In addition to the preservation officer, there shall be a chief of archaeology and historic preservation, and a minimum professional staff consisting of an architect, archaeologist, historian, and architectural historian shall be employed to meet the federal requirements for funding of the preservation program. The preservation officer shall delegate to the professional staff such functions, powers, and duties necessary to implement the purposes of this chapter. All employees presently employed exclusively or principally in the office shall remain employees subject to the discretion of the preservation officer. All employees shall be governed by the provisions of chapter 41.06 RCW.

NEW SECTION. Sec. 6. The preservation officer shall supervise and administer the activities of the office. The preservation officer is authorized:

(1) To promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Washington state history, architecture, archaeology, and culture, and to prepare comprehensive state-wide historic surveys and plans and research and evaluation of surveyed resources for the preparation of nominations to the state and national registers of historic places, in accordance with criteria approved by the advisory council established pursuant to section 9 of this 1977 amendatory act. The nominations shall comply with any standards and regulations promulgated by the United States secretary of the interior for the preservation, acquisition, and development of such properties.

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

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

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

(5) To consult with the governor and the legislature on issues relating to the conservation of the man-made environment and their impact on the well-being of the state and its citizens. The office shall submit periodic reports of its activities to the governor and the legislature.

(6) To adopt such rules, in accordance with chapter 34.04 RCW, as are necessary to carry out the provisions of this 1977 amendatory act.

**NEW SECTION.** Sec. 7. The preservation officer is empowered to (1) maintain and administer all funds appropriated by the legislature to the office for the purpose of carrying out the duties, functions, and responsibilities of the office under both state and federal law, and (2) to receive, administer, and disburse such gifts, grants, and endowments from private sources as may be made from time to time in trust or otherwise for the purposes of this 1977 amendatory act or the federal act, as now or hereafter amended.

**NEW SECTION.** Sec. 8. The amounts made available for grants to the public agencies, public or private organizations, or individuals for projects for each fiscal year shall be apportioned among program applicants by the preservation officer in accordance with needs as contained in state-wide archaeology and historic preservation plans developed by the office and approved by the governor.

**NEW SECTION.** Sec. 9. (1) There is hereby established an advisory council on historic preservation, which shall be composed of nine members appointed by the governor as follows:

(a) The director of a state historical society or the director's designee to be selected from (i) the director of the Washington state historical society, (ii) the director of the Eastern Washington state historical society, and (iii) the director of the state capitol historical society, to each serve on the council for one year on a rotating basis, the order of rotation to be determined by the governor;

(b) Six members of the public who are interested and experienced in matters to be considered by the council including the fields of history, architecture, and archaeology;

(c) The director of the Washington archaeological research center or the director's designee; and

(d) A native American.

(2) Each member of the council appointed under subsection (1)(b) and (d) of this section shall serve a four year term: PROVIDED, That those members first appointed shall serve for terms of from one to four years as designated by the governor at the time of appointment, it being the purpose of this subsection to assure staggered terms of office.

(3) A vacancy in the council shall not affect its powers, but shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(4) The chairperson of the council shall be designated by the governor.

(5) Five members of the council shall constitute a quorum.

(6) The council shall cease to exist on June 30, 1982, unless extended by law for an additional fixed period of time.

(7) The office shall provide administrative and financial service to the council.

**NEW SECTION.** Sec. 10. The council shall:

(1) Advise the governor and the office on matters relating to historic preservation; recommend measures to coordinate activities of state and local agencies, private institutions, and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;

(2) Review and recommend nominations for the state and national registers of historic places to the preservation officer;

(3) Encourage public interest and participation in historic preservation;

(4) Provide advice and assistance to local governments in drafting ordinances relating to historic preservation;

(5) Encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation; and

(6) Perform the duties of the state review body as may be required by law so long as those duties do not exceed the limitations established by this 1977 amendatory act.

NEW SECTION. Sec. 11. The directors of the state historical societies shall serve as members of the council without additional compensation. All other members of the council shall be reimbursed for travel expenses incurred in the performance of the duties of the council in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended.

Sec. 12. Section 2, chapter 134, Laws of 1975 1st ex. sess. as amended by section 1, chapter 82, Laws of 1975-'76 2nd ex. sess. and RCW 27.53.020 are each amended to read as follows:

The ~~((location))~~ discovery, identification, excavation, and study of the state's archaeological resources, the providing of information on archaeological sites for their nomination to the state and national registers of historic places, the maintaining of a complete inventory of archaeological sites and collections, and the providing of information to state, federal, and private construction agencies regarding the possible impact of construction activities on the state's archaeological resources, are proper public functions; and the Washington archaeological research center, created under the authority of chapter 39.34 RCW as now existing or hereafter amended, is hereby designated as an appropriate agency to carry out these functions. The ~~((director of the state parks and recreation commission))~~ preservation officer, in consultation with the Washington archaeological research center, shall provide guidelines for the selection of depositories designated by the state for archaeological resources. The legislature directs that there shall be full cooperation amongst the office ~~((of archaeology and historic preservation))~~, the Washington archaeological research center, and other agencies of the state.

Sec. 13. Section 3, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.030 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout this chapter.

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

(2) "Historic" means peoples and cultures who are known through written documents in their own or other languages.

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

(4) "Professional archaeologist" means a person who has ~~((extensive formal training and experience in systematic, scientific archaeology as defined in subsection (1) of this section, and who makes his or her living primarily through research in, teaching of, and/or publication on archaeology, and who is so recognized by members of the profession of archaeology through his or her participation in the activities of professional organizations of archaeologists))~~ met the educational, training, and experience requirements of the society of professional archaeologists.

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

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

(7) "Preservation officer" means the state historic preservation officer as provided for in section 4 of this 1977 amendatory act.

(8) "Office" means the office of archaeology and historic preservation.

Sec. 14. Section 6, chapter 134, Laws of 1975 1st ex. sess. as amended by section 2, chapter 82, Laws of 1975-'76 2nd ex. sess. and RCW 27.53.060 are each amended to read as follows:

On the private and public lands of this state it shall be unlawful for any person, firm, corporation, or any agency or institution of the state or a political subdivision thereof to ~~((willfully))~~ knowingly alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, American Indian or aboriginal camp site, dwelling site, rock shelter, cave dwelling site, storage site, grave, burial site, or skeletal remains and grave goods, cairn, or tool making site, or to remove from any such land, site, or area, grave, burial site, cave, rock shelter, or cairn, any skeletal remains, artifact or implement of stone, bone, wood, or any other material, including, but not limited to, projectile points, arrowheads, knives, awls, scrapers, beads or ornaments, basketry, matting, mauls, pestles, grinding stones, rock carvings or paintings, or any other artifacts or implements, or portions or fragments thereof without having obtained written permission from the ~~((director of the state parks and recreation commission))~~ preservation officer for such activities on public property or from the private landowner for such activities on private land. A private landowner may request the ~~((director of the state parks and recreation commission))~~ preservation officer to assume the duty of issuing such permits. The ~~((director))~~ preservation officer must obtain the consent of the public property owner or agency responsible for the management thereof, prior to issuance of the permit. The ~~((director of the state parks and recreation commission))~~ preservation officer, in consultation with the Washington state archaeological research center, shall develop guidelines for the issuance and processing of such permits. Such written permission shall be physically present while any such activity is being conducted. The provisions of this section shall not apply to the removal of artifacts found exposed

on the surface of the ground nor to the excavation and removal of artifacts from state owned shorelands below the line of ordinary high water (~~and from state owned tidelands below the line of ordinary high tide.~~) or within the intertidal zone.

Sec. 15. Section 8, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.080 are each amended to read as follows:

Qualified or professional archaeologists, in performance of their duties, are hereby authorized to enter upon public lands of the state of Washington and its political subdivisions, at such times and in such manner as not to interfere with the normal management thereof, for the purposes of doing archaeological resource location and evaluation studies, including site sampling activities. Scientific excavations are to be carried out only after appropriate agreement has been made between ~~((the))~~ a professional archaeologist or an institution of higher education and the agency or political subdivision responsible for such lands. Notice of such agreement shall be filed with the Washington archaeological research center and by them to the office ~~((of archaeological and historic preservation))~~. Amateur societies may engage in such activities by submitting and having approved by the responsible agency or political subdivision a written proposal detailing the scope and duration of the activity. Before approval, a proposal from an amateur society shall be submitted to the Washington archaeological research center for review and recommendation.

Sec. 16. Section 9, chapter 134, Laws of 1975 1st ex. sess. as amended by section 4, chapter 82, Laws of 1975-'76 2nd ex. sess. and RCW 27.53.090 are each amended to read as follows:

Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day of continued violation of any provision of this chapter shall constitute a distinct and separate offense. ~~((Violations))~~ Offenses shall be reported to the appropriate law enforcement agency or to the ~~((director of the state parks and recreation commission))~~ preservation officer.

NEW SECTION. Sec. 17. Prior to July 1, 1977:

(1) All reports, documents, surveys, books, records, files, and papers or other writings in the possession of the Washington state parks and recreation commission and pertaining to the functions affected by this 1977 amendatory act, shall be delivered to the custody of the preservation officer; and

(2) All funds, credits, appropriations, or other assets held in connection with the functions affected and transferred by this 1977 amendatory act shall be transferred to or assigned to the office: PROVIDED, That whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, the director of program planning and fiscal management, or the director's designee, shall make a determination as to the proper allocation and certify the same to the concerned state agencies. If apportionments of budgeted funds are required because of the transfers authorized, the director of program planning and fiscal management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each agency shall make the appropriate transfer and adjustments in funds and appropriation accounts in accordance with such certification.

**NEW SECTION.** Sec. 18. Nothing in this 1977 amendatory act shall affect any existing rights acquired under the sections amended herein except as to the governmental agencies referred to and their officials and employees; nor shall any actions, activities, or proceedings validated thereunder, any civil or criminal proceedings instituted thereunder, or any rule, regulation, or order promulgated thereunder be affected. The transfer of powers, duties, and functions as provided herein shall not affect the validity of any act performed by the Washington state parks and recreation commission or any officer or employee thereof prior to the effective date of this 1977 amendatory act. Any action pending before the Washington state parks and recreation commission at the time of transfer and pertaining to matters transferred and affected by this 1977 amendatory act shall be continued to be acted upon by the office. All existing contracts and obligations pertaining to the functions herein transferred shall remain in full force and effect and shall be performed by the office.

**NEW SECTION.** Sec. 19. The office shall utilize the facilities and administrative support of the office of the governor.

**NEW SECTION.** Sec. 20. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 21. Sections 1 through 11 and 19 of this 1977 amendatory act shall be added to Title 43 RCW as a new chapter thereof.

**NEW SECTION.** Sec. 22. The following acts or parts of acts are hereby repealed:

- (1) Section 5, chapter 134, Laws of 1975 1st ex. sess. and RCW 27.53.050;
- (2) Section 1, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.750;
- (3) Section 2, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.760;
- (4) Section 3, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.770;
- (5) Section 4, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.780;
- (6) Section 5, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.790;
- (7) Section 6, chapter 19, Laws of 1967 ex. sess., section 58, chapter 75, Laws of 1977 and RCW 43.51.800;
- (8) Section 7, chapter 19, Laws of 1967 ex. sess., section 117, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.51.810; and
- (9) Section 8, chapter 19, Laws of 1967 ex. sess. and RCW 43.51.820.

Passed the House May 31, 1977.

Passed the Senate May 26, 1977.

Approved by the Governor June 10, 1977.

Filed in Office of Secretary of State June 10, 1977.

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## CHAPTER 196

[House Bill No. 113]

### FOREIGN TRADE ZONES—ZONE SPONSORS

AN ACT Relating to foreign trade zones; amending section 4, chapter 65, Laws of 1955 as amended by section 31, chapter 42, Laws of 1970 ex. sess. and RCW 53.08.030; adding new sections to Titles 24, 35, and 36 RCW; providing an effective date; and declaring an emergency.