
**Community Development, Housing &
Tribal Affairs Committee**

HB 2724

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

Sponsors: Representatives Ortiz-Self, Appleton, Walkinshaw, Sawyer, Ryu, Roberts, Stanford and Wylie.

Brief Summary of Bill

- Creates an exemption from the Public Records Act for information regarding archeological resources and traditional cultural places that is shared between agencies or with tribes.

Hearing Date: 2/4/14

Staff: Sean Flynn (786-7124).

Background:

Department of Archeology and Historic Preservation.

The Department of Archeology and Historic Preservation (DAHP) maintains a complete inventory of archeological resource sites and collections within the state. Archeological 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 archeological sites and resources from professional archeologists practicing in the state.

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 maintains a complete inventory of archeological sites and collections. 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.

Archeological 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.

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.

The DAHP is responsible for sharing the information in its archeological resource inventory with state, federal, and private construction agencies regarding the possible impact that construction activities may have on archeological resources. The DAHP manages its inventory through a geographic information system database that helps agencies plan around archeological 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, archeological information for purposes of resource protection.

The DAHP shares information with agencies that are required to consider the impact of activities on archeological, historical, or cultural resources. For example, regulations under the State Environmental Protection Act 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 archeological sites from looting and depredation. One exemption applies to records and maps identifying the location of archeological sites. Another exemption applies to records and maps that identify archeological or historic sites or traditional sites used by a tribe that are obtained through a watershed analysis.

Summary of Bill:

An exemption from the PRA is created for any information related to historical archeological resources, archeological resources, or traditional cultural places obtained by an agency from another agency, a tribal government, or pursuant to any data-sharing agreement with the DAHP.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.