

5353-S

Sponsor(s): Senate Committee on State & Local Government (originally sponsored by Senators Prentice, Kline, Honeyford, Fraser, Patterson, Fairley, Costa, Regala, Jacobsen, Kohl-Welles and Swecker; by request of Department of Community, Trade, and Economic Development)

Brief Description: Enforcing protection of archaeological sites.

SB 5353-S - DIGEST

(DIGEST OF PROPOSED 1ST SUBSTITUTE)

Declares that the purpose of this act is to give the department of community, trade, and economic development the authority to issue civil penalties to enforce the provisions of permits issued under RCW 27.53.060 and to take into consideration prior penalties issued under chapter 27.53 RCW and under comparable federal laws when issuing permits. Additionally, this act provides guidance to state agencies and political subdivisions of the state when approving archaeological activities on public lands.

Provides that, when determining whether to grant or condition a permit, the director may give great weight to the final record of previous civil or criminal penalties against either the applicant, the parties responsible for conducting the work, or the parties responsible for carrying out the terms and conditions of the permit, either under this chapter or under comparable federal laws. If the director denies a permit, the applicant may request a hearing as provided for in chapter 34.05 RCW.

Provides that persons found to have violated chapter 27.53 RCW, either by a knowing and willful failure to obtain a permit where required under RCW 27.53.060 or by a knowing and willful failure to comply with the provisions of a permit issued by the director where required under RCW 27.53.060, in addition to other remedies as provided for by law, may be subject to one or more of the following: (1) Reasonable investigative costs incurred by a mutually agreed upon independent professional archaeologist investigating the alleged violation;

(2) Reasonable site restoration costs; and

(3) Civil penalties, as determined by the director, in an amount of not more than five thousand dollars per violation.

Declares that any person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW and applicable rules of the department of community, trade, and economic development.

Requires the approving agency or political subdivision to impose conditions on the scope and duration of the proposed activity necessary to protect the archaeological resources and ensure compliance with applicable federal, state, and local laws.