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**SUBSTITUTE HOUSE BILL 2281**

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**State of Washington**

**69th Legislature**

**2026 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by Representatives Stearns, Mena, Salahuddin, Leavitt, Wylie, Pollet, Reeves, Peterson, Berry, Farivar, Reed, Obras, Santos, Cortes, Parshley, Zahn, Nance, Street, Duerr, Ormsby, Berg, Callan, Lekanoff, Goodman, Macri, Fosse, Hill, and Bernbaum)

READ FIRST TIME 01/22/26.

1 AN ACT Relating to the state and tribal government-to-government  
2 relationship; amending RCW 43.376.010, 43.376.020, and 43.376.060;  
3 and adding a new section to chapter 43.376 RCW.

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

5 **Sec. 1.** RCW 43.376.010 and 2012 c 122 s 1 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) "Agency action" means projects proposed in state-funded  
10 construction or acquisition projects covered by executive order  
11 21-02.

12 (2) "Indian tribe" means any federally recognized Indian tribe  
13 ((whose)) with traditional lands and territories ((included parts  
14 of)) in Washington.

15 (2) "State agency" means an agency, department, office, or the  
16 office of a statewide elected official, of the state of Washington.

17 (3) "Traditional" refers to those beliefs, customs, and practices  
18 of an Indian tribe that have been passed down through generations and  
19 the places associated with those beliefs, customs, and practices.

20 (4) "Tribal traditional cultural place" is any geophysical or  
21 geographical place, area, or feature, associated with the cultural

1 practices, traditions, beliefs, lifeways, arts, crafts, or social  
2 institutions of an Indian tribe.

3 (5) "Undue burden" means any material, significant, or sustained  
4 impairment, disruption, restriction, or diminishment of a tribal  
5 traditional cultural practice, or of the integrity, continuity,  
6 condition, or accessibility of a tribal cultural place, including  
7 direct or cumulative impacts.

8 **Sec. 2.** RCW 43.376.020 and 2022 c 253 s 3 are each amended to  
9 read as follows:

10 In establishing a government-to-government relationship with  
11 Indian tribes, state agencies must:

12 (1) Make reasonable efforts to collaborate with Indian tribes in  
13 the development of policies, agreements, and program implementation  
14 that directly affect Indian tribes and develop a mutually agreed upon  
15 consultation process that is used by the agency for issues involving  
16 specific Indian tribes. Covered agencies, as defined in RCW  
17 70A.02.010, subject to the requirements of chapter 70A.02 RCW, must  
18 offer consultation with Indian tribes on the actions specified in RCW  
19 70A.02.100. State agencies described in RCW 70A.65.305 must offer  
20 consultation with Indian tribes on the actions specified in RCW  
21 70A.65.305;

22 (2) Before taking any agency action that may affect a tribal  
23 traditional cultural place, comply with the consultation requirements  
24 of executive order 21-02;

25 (3) Designate a tribal liaison who reports directly to the head  
26 of the state agency;

27 ~~((3))~~ (4) Ensure that tribal liaisons who interact with Indian  
28 tribes and the executive directors of state agencies receive training  
29 as described in RCW 43.376.040; and

30 ~~((4))~~ (5) Submit an annual report to the governor on activities  
31 of the state agency involving Indian tribes and on implementation of  
32 this chapter.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.376  
34 RCW to read as follows:

35 (1) A state agency may not impose an undue burden or interfere  
36 with an Indian tribe's exercise of traditional cultural practices on  
37 a tribal traditional cultural place unless it is in furtherance of a

1 compelling governmental interest and is the least restrictive means  
2 of furthering that compelling governmental interest.

3 (2) An Indian tribe whose traditional cultural practices have  
4 been burdened in violation of this section may assert that violation  
5 as a claim in a judicial proceeding and obtain appropriate relief  
6 against a state agency. Actions shall be brought in superior court in  
7 accordance with chapter 4.92 RCW.

8 (3) (a) The aggrieved party shall have the burden of proving that  
9 the agency action having an impact upon the management, use, or  
10 preservation of a tribal traditional cultural place, is posing or  
11 will pose an undue burden on any aspect of a tribal traditional  
12 cultural practice.

13 (b) If the aggrieved party meets its burden of proof under (a) of  
14 this subsection, the agency shall have the burden of proving that the  
15 governmental interest in the state action is compelling and that the  
16 agency chose the least intrusive means for satisfying that  
17 governmental interest.

18 (4) In the case of any proceeding involving a tribal traditional  
19 cultural place or associated traditional cultural practice of a tribe  
20 whose traditional cultural tenets prohibit disclosure of information  
21 concerning their traditional cultural places or traditional cultural  
22 beliefs or practices, and mandate secrecy and internal sanctions to  
23 enforce those prohibitions, and where the tribal government of the  
24 affected tribe so certifies, the agency shall have the burden of  
25 proving that:

26 (a) It has a compelling governmental interest in pursuing the  
27 action as originally proposed;

28 (b) It is essential that the agency's compelling governmental  
29 interest be furthered as originally proposed; and

30 (c) None of the less intrusive alternatives identified adequately  
31 advance that compelling governmental interest.

32 (5) If an agency does not meet its burden of proof under this  
33 section, it shall not proceed with the proposed action.

34 (6) An action against a state agency brought under this section  
35 shall be commenced within three years of the agency action.

36 **Sec. 4.** RCW 43.376.060 and 2012 c 122 s 6 are each amended to  
37 read as follows:

1            (~~Nothing~~) Except as provided in section 3 of this act, nothing  
2 in this chapter creates a right of action against a state agency or a  
3 right of review of an action by a state agency.

--- **END** ---