

NATIVE AMERICAN HERITAGE COMMISSION**NATIVE AMERICAN HERITAGE COMMISSION LEGISLATIVE ENHANCEMENTS
PROPOSED IN BUDGET TRAILER BILL LANGUAGE
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(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency, and genealogical records of tribal members and cultural affiliation records received during a consultation by the Native American Heritage Commission relating to the inclusion or removal of a Native American tribe, person, or entity on the tribal contact list maintained by the Native American Heritage Commission, consideration of the persons most likely descended from Native American human remains pursuant to subdivision (a) of Section 5097.98 of the Public Resources Code, or a claim or dispute under Section 8014 or 8016 of the Health and Safety Code.

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(c) Genealogical records of tribal members and cultural affiliation records received during a consultation by the Native American Heritage Commission relating to the inclusion or removal of a Native American tribe, person, or entity on the tribal contact list maintained by the Native American Heritage Commission, consideration of the persons most likely descended from Native American human remains pursuant to subdivision (a) of Section 5097.98 of the Public Resources Code, or a claim or dispute under Section 8014 or 8016 of the Health and Safety Code.

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(l) Nothing in this article shall be construed to prevent the Native American Heritage Commission from holding closed sessions when considering matters related to the

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inclusion or removal of a Native American tribe, person, or entity on the tribal contact list maintained by the Native American Heritage Commission, consideration of the persons most likely descended from Native American human remains pursuant to subdivision (a) of Section 5097.98 of the Public Resources Code, or a claim or dispute under Section 8014 or 8016 of the Health and Safety Code. Action taken on agenda items considered in closed session pursuant to this subdivision shall be taken in open session so as to inform the public of the evidence, findings, and basis of the Native American Heritage Commission's decision, consistent with, until January 1, 2023, Sections 6254 and 6254.10 and, on and after January 1, 2023, Sections 7927.000 and 7927.005.

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(/) Nothing in this article shall be construed to prevent the Native American Heritage Commission from holding closed sessions when considering matters related to the inclusion or removal of a Native American tribe, person, or entity on the tribal contact list maintained by the Native American Heritage Commission, consideration of the persons most likely descended from Native American human remains pursuant to subdivision (a) of Section 5097.98 of the Public Resources Code, or a claim or dispute under Section 8014 or 8016 of the Health and Safety Code. Action taken on agenda items considered in closed session pursuant to this subdivision shall be taken in open session so as to inform the public of the evidence, findings, and basis of the Native American Heritage Commission's decision, consistent with, until January 1, 2023, Sections 6254 and 6254.10 and, on and after January 1, 2023, Sections 7927.000 and 7927.005.

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SEC. 5. Section 5097.94.5 is added to the Public Resources Code, to read:
5097.94.5. (a) (1) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the application process, removal process, criteria, any definitions, or any other processes adopted and used by the commission to develop or amend the tribal contact list maintained by the commission pursuant to subdivision (m) of Section 5097.94, required by Chapter 905 of the Statutes of 2004, including Section 815.3 of the Civil Code and Sections 65092, 65352, and UNBACKED 08/22/22 07:39 PM 31672 RN 22 19787 PAGE 24 221978731672BILLMA40 65352.3 of the Government Code, and described in Section 8012 of the Health and Safety Code, or to the

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tribal contact list itself, including the existing tribal contact list. (2) Before the commission makes additions to, changes, or amends the existing tribal contact list maintained by the commission, or any subsequent version of the tribal contact list, the commission shall adopt an application process and procedures that establish the criteria, rules, and procedures for the application process, removal process, criteria, any definitions, or any other process adopted and used by the commission concerning the tribal contact list. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to this paragraph. 65352.3 of the Government Code, and described in Section 8012 of the Health and Safety Code, or to the tribal contact list itself, including the existing tribal contact list.

(2) Before the commission makes additions to, changes, or amends the existing tribal contact list maintained by the commission, or any subsequent version of the tribal contact list, the commission shall adopt an application process and procedures that establish the criteria, rules, and procedures for the application process, removal process, criteria, any definitions, or any other process adopted and used by the commission concerning the tribal contact list. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to this paragraph.

(b) (1) Before publishing any rules or procedures that shall be used to add or remove a tribe from the contact list, commission staff shall conduct meaningful consultation, as defined in Section 65352.4 of the Government Code, with interested tribes and consider public comments.

(2) Following the consultation described in paragraph (1), the commission shall provide a 90-day public comment period of the draft rules and procedures. Thirty days after publication of the draft rules and procedures on its internet website, the commission shall hold at least 4 public meetings to solicit oral comments on the draft rules and procedures within the 90-day public comment period. One meeting shall be conducted at a location in northern California, one meeting shall be conducted at a location in the central valley of California, one meeting shall be conducted at a location in eastern California, and one meeting shall be conducted at a location in southern California. Where possible, the commission shall strive to provide a hybrid meeting option to allow for video, telephonic, or other electronic participation in the public meetings.

(3) Following completion of paragraph (2), the commission shall hold a public meeting in order to adopt the draft rules and procedures in accordance with this section. The commission shall publish the draft rules and procedures on its internet website at least 30 days before the public meeting in which the commission votes to adopt them.

(4) At least 30 days before the public meeting in which the commission votes to adopt the draft rules and procedures, the commission shall provide a summary of all comments, and findings addressing comments, provided to the commission during tribal consultations and public comment pursuant to this section.

(c) Any rules and procedures promulgated by the commission in accordance with this section shall be valid and operative. Any rules and procedures promulgated by the commission in accordance with this section shall be subject to appropriate judicial review in the superior court with jurisdiction.

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(i) (1) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any rules or procedures the commission adopts or amends to administer this section.

(2) Before finalizing any rules or procedures to administer this section, commission staff shall conduct meaningful consultation, as defined in Section 65352.4 of the Government Code, with interested tribes and consider public comments.

(3) Following the consultation described in paragraph (2), the commission shall provide a 90-day public comment period on the draft rules and procedures. 30 days after publication of the draft rules and procedures on its internet website, the commission shall hold at least 4 public meetings to solicit oral comments on the draft rules and procedures within the 90-day public comment period. One meeting shall be conducted at a location in northern California, one meeting shall be conducted at a location in the central valley of California, one meeting shall be conducted at a location in eastern California, and one meeting shall be conducted at a location in southern California. Where possible, the commission shall strive to provide a hybrid meeting option to allow for video, telephonic, or other electronic participation in the public meetings.

(4) Following completion of paragraph (3), the commission shall hold a public meeting in order to adopt the draft rules and procedures in accordance with this section. The commission shall publish the draft rules and procedures on its internet website at least 30 days before the public meeting in which the commission votes to adopt them.

(5) At least 30 days before the public meeting in which the commission votes to adopt the draft rules and procedures, the commission shall provide a summary of all comments, and findings addressing comments, provided to the commission during tribal consultations and public comment pursuant to this subdivision.

(6) Any rules and procedures promulgated by the commission in accordance with this subdivision shall be valid and operative. Any rules and procedures promulgated UNBACKED 08/22/22 07:39 PM 31672 RN 22 19787 PAGE 27 221978731672BILLMA40 by the commission in accordance with this subdivision shall be subject to appropriate judicial review by the commission in accordance with this subdivision shall be subject to appropriate judicial review in the superior court with jurisdiction.