



# **SB 1418 and Changes to the Arizona State Museum's CRM Service Rates and Fees**

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## **Today's Presentation:**

- Introduction to Arizona State Museum (ASM)
- Arizona Senate Bill (SB) 1418
  - The mandated proposal and public comment process

# Today's Presentation (cont.):

- Concepts underlying the proposed new rate and fee structure
- Stakeholder comments to date
- ASM responses
- Discussion

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# Introduction to ASM



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## **ASM's Mission Statement:**

- The Arizona State Museum, an anthropology museum, preserves, creates, and shares knowledge about the peoples and cultures of Arizona and surrounding regions.

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## **SB 1418 requirements:**

- Charges ASM assesses for services performed pursuant to the Arizona Antiquities Act (ARS § 41-841, et seq.) and ARS § 41-865 must be adopted by the Arizona Board of Regents (ABOR).

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## **SB 1418 requirements (cont.):**

- posted Notice of Intent to Raise Fees
- publication of a Draft Fee Proposal in the AZ Administrative Register and notification of stakeholders

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## **SB 1418 requirements (cont.):**

- 30-day (minimum) public comment period
- Revised Draft Fee Proposal
- 20-day (minimum) public comment period

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## **SB 1418 requirements (cont.):**

- posting of Final Fee Proposal within five business days of the end of the second public comment period

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## **ASM CRM Services:**

- Arizona Antiquities Act Permits
- Project Registration (Curation Agreements)
- Collections Intake (processing)
- Curation in Perpetuity
- Burial Agreements
- Burial Excavation and Analysis

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## Underlying Concepts:

- Per ARS Titles 15 and 35, and Article 9, Section 7 of the Arizona State Constitution, **ASM may not gift to or subsidize external entities that receive services.**

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## Underlying Concepts (cont.):

- Per ARS § 41-844(I) and ABOR Policy 8-205(I)(1), **the costs of providing mandated services must be borne by project sponsors.**

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## Underlying Concepts (cont.):

- a move from task-based (average-time) to time-based (actual cost) billing
- recovery of **in-perpetuity curation costs** as well as one-time costs

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## Underlying Concepts (cont.):

- estimates/quotes based on a client questionnaire and ASM's own historical information

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## **SB 1418 Timeline:**

- Notice of Intent, 21 Dec 16
- 1<sup>st</sup> Draft Fee Proposal, 10 Feb 17
- 1<sup>st</sup> Public Comment Period
  - 11 Feb 17 – 12 Mar 17
- 2<sup>nd</sup> Draft Proposal, 17 Apr 17

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## **SB 1418 Timeline (cont.):**

- 2<sup>nd</sup> Public Comment Period
  - 18 Apr 17 – 7 May 17
- Extension of 2<sup>nd</sup> Public Comment Period, 11 May 17
  - Through 18 Aug 17
- Final Fee Proposal, 25 Aug 17

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## **SB 1418 Timeline (cont.):**

- ABOR adoption of ASM Fee Proposal, 27-29 Sep 17
- Fees effective, 1 Oct 17

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## **Stakeholder Outreach:**

- Stakeholder Meeting, 20 Sep 16
- Stakeholder Meeting, 12 Dec 16
- Southwest Native Nations Advisory Board Meeting, 12 May 17
- CRM Forum, 13 Jun 17

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## Purposes of CRM Forum:

- listen to and seek additional input from CRM stakeholders re: ASM's proposed new rate and fee structure
- improve articulation between ASM's proposed new business practices and business practices in the CRM industry

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## Stakeholder Comment #1:

- CRM firms need **binding estimates** of ASM charges in order to budget for projects. The **uncertainty** associated with what have been called "non-binding" estimates is problematic.

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## ASM Response:

- ASM will issue **project quotes** that are **scope-dependent**.
  - ASM will honor a quote unless there is a material variance in the scope of the project, as measured between information received via the Request for Quote and collections actually submitted.

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## ASM Response (cont.):

- A change in project scope will oblige the CRM firm to contact ASM for a revised quote based on the new project scope.

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## Stakeholder Comment #2:

- Charges for Collections Intake account for a large proportion of any testing or excavation budget.
  - **Uncertainty** regarding these charges is a great cause for concern.
- **Billing cannot go on indefinitely.**
  - CRM firms must close out projects to obtain final payment from project sponsors.

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## ASM Response:

- **ASM** will honor quotes for charges related to Collections Intake tasks and **will bill for these costs on a one-time, up-front basis**, with two caveats:
  - material changes in project scope will entail the issuing of a new quote; and

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## ASM Response (cont.):

- quotes for these tasks are based on the assumption that CRM firms will turn in collections in accordance with state standards and that ASM will not have to incur additional costs in bringing collections up to standards.

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## ASM Response (cont.):

- CRM firms may be subject to additional costs in the future, if submitted collections are found to be non-compliant.

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## CRM Forum Feedback:

- Does this mean that in-perpetuity fees are set (stable) for the foreseeable future?
- Will there be refunds if projects are cancelled?
- What constitutes a “material change” in project scope?

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## Stakeholder Comment #3:

- ASM proposes to charge for curation of objects and documents in perpetuity, as required by state law.
  - Some refer to this as a 400% increase in the per-box rate and ask that ASM “phase in” this change.

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## ASM Response:

- The average cost of submitting a box of artifacts to ASM has increased from \$1,000 to \$4,325:
  - \$1,321 for Collections Intake, and
  - \$3,004 for Curation in Perpetuity
- Previously, ASM did not collect funds to cover costs of curation in perpetuity.

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## ASM Response (cont.):

- Study of 40 repositories over 10 years:
  - only one increased fees less than 100%
  - two thirds increased fees at least 200%
  - one quarter raised fees at least 300%
  - one tenth increased fees at least 400%
  - one increased fees more than 600%

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## ASM Response (cont.):

- More repositories are charging a one-time collections processing fee as well as **annual fees** to cover ongoing costs.
- The use of a one-time processing fee with ongoing **annual fees** is the dominant model in the eastern U.S.

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## ASM Response (cont.):

- To cover costs in perpetuity, a repository must:
  - charge a one-time collections processing fee **as well as an annual fee**; or
  - use a funding model akin to a perpetuity due linked to an **interest-bearing account**, as described in ASM's initial and revised draft proposals.

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## ASM Response (cont.):

- The use of an interest-bearing account actually allows ASM to charge project proponents **a lower one-time fee and less overall** for curation in perpetuity.
- There is no source of funding available to cover costs incurred during any proposed “phase-in” period.

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## Stakeholder Comment #4:

- There will be unintended consequences, including reduced scopes of work for projects, the recovery of smaller samples, non-compliance with state laws, illegal culling of collections, and attacks on the state’s statutory and regulatory framework.
  - ASM should develop a culling policy.

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## ASM Response:

- The cost of compliance should not be an excuse for noncompliance.
- ASM's extant regulations and policies represent *de facto* acceptance of the premise that, if cost is an issue, archaeologists should **excavate smaller samples but submit for curation all items collected** (except mass-produced objects).

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## ABOR Policy 8-204(Q):

- All collections of archaeological or paleontological specimens and all project records that are acquired under the authority of a permit or that result from permitted activities remain the property of the State of Arizona regardless of the repository institution.

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## **ASM Repository Manual Policy**

### **1.7.1 Collections from State Lands:**

- Archaeological projects may not unilaterally discard or otherwise dispose of survey or excavated collections from State lands or any part of them. The Director of the Museum must approve disposal of any cultural material, no matter how trivial in appearance or apparent significance, from any surveys or excavations on State lands. This approval must be in writing.

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## **CRM Forum Feedback:**

- The scale of the increase in costs is particularly difficult to deal with given that it is so sudden.
- Curation costs could potentially outstrip other project costs.
- Will ASM and other agencies accept smaller samples in data recovery?

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## CRM Forum Feedback (cont.):

- Community discussion about a two-tiered approach
- Tribal perspectives on smaller data recovery samples?
- Agency forum needed

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## Discussion

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