
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: AMH-5032.1/00

ATTY/TYPIST: KB:rmh

BRIEF DESCRIPTION:

2 **ESSB 6277** - H COMM AMD ADOPTED AS AMENDED 3/3/00
3 By Committee on Agriculture & Ecology

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** INTENT. It is the intent of the
8 legislature to allow applicants for environmental permits for complex
9 projects to compensate permitting agencies for providing environmental
10 review through the voluntary negotiation of cost-reimbursement
11 agreements with the permitting agency. It is the further intent of the
12 legislature that cost-reimbursement agreements for complex projects
13 free permitting agency resources to focus on the review of small
14 projects permits.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21A RCW
16 to read as follows:

17 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF ECOLOGY. (1)
18 The department may enter into a written cost-reimbursement agreement
19 with a permit applicant for a complex project to recover from the
20 applicant the reasonable costs incurred by the department in carrying
21 out the requirements of this chapter, as well as the requirements of
22 other relevant laws, as they relate to permit coordination,
23 environmental review, application review, technical studies, and permit
24 processing. The cost-reimbursement agreement shall identify the
25 specific tasks, costs, and schedule for work to be conducted under the
26 agreement. For purposes of this section, a complex project is a
27 project for which an environmental impact statement is required under
28 chapter 43.21C RCW.

29 (2) The written cost-reimbursement agreement shall be negotiated
30 with the permit applicant. Under the provisions of a cost-
31 reimbursement agreement, funds from the applicant shall be used by the
32 department to contract with an independent consultant to carry out the
33 work covered by the cost-reimbursement agreement. The department may
34 also use funds provided under a cost-reimbursement agreement to assign
35 current staff to review the work of the consultant, to provide

1 necessary technical assistance when an independent consultant with
2 comparable technical skills is unavailable, and to recover reasonable
3 and necessary direct and indirect costs that arise from processing the
4 permit. The department shall, in developing the agreement, ensure that
5 final decisions that involve policy matters are made by the agency and
6 not by the consultant. The department shall make an estimate of the
7 number of permanent staff hours to process the permits, and shall
8 contract with consultants to replace the time and functions committed
9 by these permanent staff to the project. The billing process shall
10 provide for accurate time and cost accounting and may include a billing
11 cycle that provides for progress payments. Use of cost-reimbursement
12 agreements shall not reduce the current level of staff available to
13 work on permits not covered by cost-reimbursement agreements. The
14 department may not use any funds under a cost-reimbursement agreement
15 to replace or supplant existing funding. The restrictions of chapter
16 42.52 RCW apply to any cost-reimbursement agreement, and to any person
17 hired as a result of a cost-reimbursement agreement.

18 (3) The department may not enter into any new cost-reimbursement
19 agreements on or after July 1, 2005. The department may continue to
20 administer any cost-reimbursement agreement which was entered into
21 before July 1, 2005, until the project is completed.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.30 RCW
23 to read as follows:

24 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF NATURAL
25 RESOURCES. (1) The department may enter into a written cost-
26 reimbursement agreement with a permit or lease applicant for a complex
27 project to recover from the applicant the reasonable costs incurred by
28 the department in carrying out the requirements of this chapter, as
29 well as the requirements of other relevant laws, as they relate to
30 permit coordination, environmental review, application review,
31 technical studies, and permit or lease processing. The cost-
32 reimbursement agreement shall identify the specific tasks, costs, and
33 schedule for work to be conducted under the agreement. For purposes of
34 this section, a complex project is a project for which an environmental
35 impact statement is required under chapter 43.21C RCW. An applicant
36 for a lease issued under chapter 79.90 RCW may not enter into a cost-
37 reimbursement agreement under this section for projects conducted under
38 the lease.

1 (2) The written cost-reimbursement agreement shall be negotiated
2 with the permit or lease applicant. Under the provisions of a cost-
3 reimbursement agreement, funds from the applicant shall be used by the
4 department to contract with an independent consultant to carry out the
5 work covered by the cost-reimbursement agreement. The department may
6 also use funds provided under a cost-reimbursement agreement to assign
7 current staff to review the work of the consultant, to provide
8 necessary technical assistance when an independent consultant with
9 comparable technical skills is unavailable, and to recover reasonable
10 and necessary direct and indirect costs that arise from processing the
11 permit or lease. The department shall, in developing the agreement,
12 ensure that final decisions that involve policy matters are made by the
13 agency and not by the consultant. The department shall make an
14 estimate of the number of permanent staff hours to process the permits
15 or leases, and shall contract with consultants to replace the time and
16 functions committed by these permanent staff to the project. The
17 billing process shall provide for accurate time and cost accounting and
18 may include a billing cycle that provides for progress payments. Use
19 of cost-reimbursement agreements shall not reduce the current level of
20 staff available to work on permits or leases not covered by cost-
21 reimbursement agreements. The department may not use any funds under
22 a cost-reimbursement agreement to replace or supplant existing funding.
23 The restrictions of chapter 42.52 RCW apply to any cost-reimbursement
24 agreement, and to any person hired as a result of a cost-reimbursement
25 agreement.

26 (3) The department may not enter into any new cost-reimbursement
27 agreements on or after July 1, 2005. The department may continue to
28 administer any cost-reimbursement agreement which was entered into
29 before July 1, 2005, until the project is completed.

30 (4)(a) Until July 1, 2003, the use of state-owned aquatic lands for
31 local public utility lines owned by a nongovernmental entity shall be
32 granted by lease if the use is consistent with the purpose of RCW
33 79.90.450 through 79.90.460 and does not obstruct navigation or other
34 public uses. The total charge for the term of the lease shall be the
35 larger of (i) an amount equal to the diminution in the property value
36 caused by locating the utility lines on the aquatic land, based on the
37 appraised value of the land in its current use at the time of
38 application for the lease, or (ii) five thousand dollars. The charge
39 shall be paid in advance upon grant of the lease. The term of the

1 lease shall be thirty years. In addition to the charge for the lease,
2 the department may charge a fee that recovers its actual administrative
3 expenses directly incurred in receiving an application for the lease,
4 approving the lease, and reviewing plans for and construction of the
5 utility lines. A final decision on existing applications for leases
6 shall be made within one hundred twenty days. The department shall
7 process and come to a final decision on a maximum of five new
8 applications submitted by each nongovernmental entity per year. Upon
9 request of the applicant, the department may reach a decision on an
10 application within sixty days and charge an additional fee for such an
11 expedited processing in the amount of ten percent of the total rent.

12 (b) The utilities and aquatic lands task force is created. The
13 task force is composed of the following: Two members of the house of
14 representatives, one from each major caucus, appointed by the co-
15 speakers of the house of representatives; two members of the senate,
16 one from each major caucus, appointed by the president of the senate;
17 two members from the department of natural resources; one member from
18 nonprofit electric utilities; and one member from investor-owned
19 electric utilities. The utilities and aquatic lands task force shall
20 study charges made for the lease or easement of aquatic lands for local
21 public utility lines, and, by July 1, 2001, must recommend to the
22 legislature any changes from current practice found appropriate.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.70 RCW
24 to read as follows:

25 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF HEALTH. (1) The
26 department may enter into a written cost-reimbursement agreement with
27 a permit applicant for a complex project to recover from the applicant
28 the reasonable costs incurred by the department in carrying out the
29 requirements of this chapter, as well as the requirements of other
30 relevant laws, as they relate to permit coordination, environmental
31 review, application review, technical studies, and permit processing.
32 The cost-reimbursement agreement shall identify the specific tasks,
33 costs, and schedule for work to be conducted under the agreement. For
34 purposes of this section, a complex project is a project for which an
35 environmental impact statement is required under chapter 43.21C RCW.

36 (2) The written cost-reimbursement agreement shall be negotiated
37 with the permit applicant. Under the provisions of a cost-
38 reimbursement agreement, funds from the applicant shall be used by the

1 department to contract with an independent consultant to carry out the
2 work covered by the cost-reimbursement agreement. The department may
3 also use funds provided under a cost-reimbursement agreement to assign
4 current staff to review the work of the consultant, to provide
5 necessary technical assistance when an independent consultant with
6 comparable technical skills is unavailable, and to recover reasonable
7 and necessary direct and indirect costs that arise from processing the
8 permit. The department shall, in developing the agreement, ensure that
9 final decisions that involve policy matters are made by the agency and
10 not by the consultant. The department shall make an estimate of the
11 number of permanent staff hours to process the permits, and shall
12 contract with consultants to replace the time and functions committed
13 by these permanent staff to the project. The billing process shall
14 provide for accurate time and cost accounting and may include a billing
15 cycle that provides for progress payments. Use of cost-reimbursement
16 agreements shall not reduce the current level of staff available to
17 work on permits not covered by cost-reimbursement agreements. The
18 department may not use any funds under a cost-reimbursement agreement
19 to replace or supplant existing funding. The restrictions of chapter
20 42.52 RCW apply to any cost-reimbursement agreement, and to any person
21 hired as a result of a cost-reimbursement agreement.

22 (3) The department may not enter into any new cost-reimbursement
23 agreements on or after July 1, 2005. The department may continue to
24 administer any cost-reimbursement agreement which was entered into
25 before July 1, 2005, until the project is completed.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.300 RCW
27 to read as follows:

28 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF FISH AND
29 WILDLIFE. (1) The department may enter into a written cost-
30 reimbursement agreement with a permit applicant for a complex project
31 to recover from the applicant the reasonable costs incurred by the
32 department in carrying out the requirements of this chapter, as well as
33 the requirements of other relevant laws, as they relate to permit
34 coordination, environmental review, application review, technical
35 studies, and permit processing. The cost-reimbursement agreement shall
36 identify the specific tasks, costs, and schedule for work to be
37 conducted under the agreement. For purposes of this section, a complex

1 project is a project for which an environmental impact statement is
2 required under chapter 43.21C RCW.

3 (2) The written cost-reimbursement agreement shall be negotiated
4 with the permit applicant. Under the provisions of a cost-
5 reimbursement agreement, funds from the applicant shall be used by the
6 department to contract with an independent consultant to carry out the
7 work covered by the cost-reimbursement agreement. The department may
8 also use funds provided under a cost-reimbursement agreement to assign
9 current staff to review the work of the consultant, to provide
10 necessary technical assistance when an independent consultant with
11 comparable technical skills is unavailable, and to recover reasonable
12 and necessary direct and indirect costs that arise from processing the
13 permit. The department shall, in developing the agreement, ensure that
14 final decisions that involve policy matters are made by the agency and
15 not by the consultant. The department shall make an estimate of the
16 number of permanent staff hours to process the permits, and shall
17 contract with consultants to replace the time and functions committed
18 by these permanent staff to the project. The billing process shall
19 provide for accurate time and cost accounting and may include a billing
20 cycle that provides for progress payments. Use of cost-reimbursement
21 agreements shall not reduce the current level of staff available to
22 work on permits not covered by cost-reimbursement agreements. The
23 department may not use any funds under a cost-reimbursement agreement
24 to replace or supplant existing funding. The restrictions of chapter
25 42.52 RCW apply to any cost-reimbursement agreement, and to any person
26 hired as a result of a cost-reimbursement agreement.

27 (3) The department may not enter into any new cost-reimbursement
28 agreements on or after July 1, 2005. The department may continue to
29 administer any cost-reimbursement agreement which was entered into
30 before July 1, 2005, until the project is completed.

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.94 RCW
32 to read as follows:

33 COST-REIMBURSEMENT AGREEMENT BY AN AIR POLLUTION CONTROL AUTHORITY.

34 (1) An authority may enter into a written cost-reimbursement agreement
35 with a permit applicant for a complex project to recover from the
36 applicant the reasonable costs incurred by the authority in carrying
37 out the requirements of this chapter, as well as the requirements of
38 other relevant laws, as they relate to permit coordination,

1 environmental review, application review, technical studies, and permit
2 processing. The cost-reimbursement agreement shall identify the
3 specific tasks, costs, and schedule for work to be conducted under the
4 agreement. For purposes of this section, a complex project is a
5 project for which an environmental impact statement is required under
6 chapter 43.21C RCW.

7 (2) The written cost-reimbursement agreement shall be negotiated
8 with the permit applicant. Under the provisions of a cost-
9 reimbursement agreement, funds from the applicant shall be used by the
10 air pollution control authority to contract with an independent
11 consultant to carry out the work covered by the cost-reimbursement
12 agreement. The air pollution control authority may also use funds
13 provided under a cost-reimbursement agreement to assign current staff
14 to review the work of the consultant, to provide necessary technical
15 assistance when an independent consultant with comparable technical
16 skills is unavailable, and to recover reasonable and necessary direct
17 and indirect costs that arise from processing the permit. The air
18 pollution control authority shall, in developing the agreement, ensure
19 that final decisions that involve policy matters are made by the agency
20 and not by the consultant. The air pollution control authority shall
21 make an estimate of the number of permanent staff hours to process the
22 permits, and shall contract with consultants to replace the time and
23 functions committed by these permanent staff to the project. The
24 billing process shall provide for accurate time and cost accounting and
25 may include a billing cycle that provides for progress payments. Use
26 of cost-reimbursement agreements shall not reduce the current level of
27 staff available to work on permits not covered by cost-reimbursement
28 agreements. The air pollution control authority may not use any funds
29 under a cost-reimbursement agreement to replace or supplant existing
30 funding. The provisions of chapter 42.52 RCW apply to any cost-
31 reimbursement agreement, and to any person hired as a result of a cost-
32 reimbursement agreement. Members of the air pollution control
33 authority's board of directors shall be considered as state officers,
34 and employees of the air pollution control authority shall be
35 considered as state employees, for the sole purpose of applying the
36 restrictions of chapter 42.52 RCW to this section.

37 (3) An air pollution control authority may not enter into any new
38 cost-reimbursement agreements on or after July 1, 2005. The department

1 may continue to administer any cost-reimbursement agreement which was
2 entered into before July 1, 2005, until the project is completed.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.03 RCW
4 to read as follows:

5 Any applicant for a new withdrawal or a change, transfer, or
6 amendment of a water right pending before the department, may initiate
7 a cost-reimbursement agreement with the department to provide expedited
8 review of the application. A cost-reimbursement agreement may only be
9 initiated under this section if the applicant agrees to pay for, or as
10 part of a cooperative effort agrees to pay for, the cost of processing
11 his or her application and all other applications from the same source
12 of supply which must be acted upon before the applicant's request
13 because they were filed prior to the date of when the applicant filed.
14 The department shall use the process established under section 2 of
15 this act for entering into cost-reimbursement agreements, except that
16 it is not necessary for an environmental impact statement to be filed
17 as a prerequisite for entering into a cost-reimbursement agreement
18 under this section.

19 NEW SECTION. **Sec. 8.** Captions used in this act are not any part
20 of the law.

21 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 immediately."

25 Correct the title.

EFFECT: Removes requirement for OFM to develop guidelines and
replaces it with language that specifies what must be identified in an
agreement. Removes section pertaining to processing water rights
permits in Island County. Allows cost-reimbursement agreements for
complex projects - which is defined as a project requiring an EIS.
Limits the time for which new agreements can be negotiated at July 1,
2005. Leases under chapter 79.90 RCW are ineligible for these
agreements. Requires the funds under an agreement to be used to hire
independent consultants, but current staff may be used to review the
work being done by the consultants and may be used to provide technical
assistance if the available consultants don't have comparable technical
skills. Adds nonsupplanting language. Prohibits the level of staff to

work on other permits from being reduced. Allows the hiring of consultants to replace permanent staff diverted to work on permits covered by the agreements. Applies the restrictions of the Ethics in Public Service chapter of law to cost-reimbursement agreements.

--- END ---