

2 **ESSB 6277** - H COMM AMD **ADOPTED 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 make an estimate of the number of  
5 permanent staff hours to process the permits, and shall contract with  
6 consultants to replace the time and functions committed by these  
7 permanent staff to the project. The billing process shall provide for  
8 accurate time and cost accounting and may include a billing cycle that  
9 provides for progress payments. Use of cost-reimbursement agreements  
10 shall not reduce the current level of staff available to work on  
11 permits not covered by cost-reimbursement agreements. The department  
12 may not use any funds under a cost-reimbursement agreement to replace  
13 or supplant existing funding. The restrictions of chapter 42.52 RCW  
14 apply to any cost-reimbursement agreement, and to any person hired as  
15 a result of a cost-reimbursement agreement.

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

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

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

37 (2) The written cost-reimbursement agreement shall be negotiated  
38 with the permit or lease applicant. Under the provisions of a cost-

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

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

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

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

1 (2) The written cost-reimbursement agreement shall be negotiated  
2 with the permit 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. The department shall make an estimate of the number of  
12 permanent staff hours to process the permits, and shall contract with  
13 consultants to replace the time and functions committed by these  
14 permanent staff to the project. The billing process shall provide for  
15 accurate time and cost accounting and may include a billing cycle that  
16 provides for progress payments. Use of cost-reimbursement agreements  
17 shall not reduce the current level of staff available to work on  
18 permits not covered by cost-reimbursement agreements. The department  
19 may not use any funds under a cost-reimbursement agreement to replace  
20 or supplant existing funding. The restrictions of chapter 42.52 RCW  
21 apply to any cost-reimbursement agreement, and to any person hired as  
22 a result of a cost-reimbursement agreement.

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

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

29 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF FISH AND  
30 WILDLIFE. (1) The department may enter into a written cost-  
31 reimbursement agreement with a permit applicant for a complex project  
32 to recover from the applicant the reasonable costs incurred by the  
33 department in carrying out the requirements of this chapter, as well as  
34 the requirements of other relevant laws, as they relate to permit  
35 coordination, environmental review, application review, technical  
36 studies, and permit processing. The cost-reimbursement agreement shall  
37 identify the specific tasks, costs, and schedule for work to be  
38 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 make an estimate of the number of  
14 permanent staff hours to process the permits, and shall contract with  
15 consultants to replace the time and functions committed by these  
16 permanent staff to the project. The billing process shall provide for  
17 accurate time and cost accounting and may include a billing cycle that  
18 provides for progress payments. Use of cost-reimbursement agreements  
19 shall not reduce the current level of staff available to work on  
20 permits not covered by cost-reimbursement agreements. The department  
21 may not use any funds under a cost-reimbursement agreement to replace  
22 or supplant existing funding. The restrictions of chapter 42.52 RCW  
23 apply to any cost-reimbursement agreement, and to any person hired as  
24 a result of a cost-reimbursement agreement.

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

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

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

32 (1) An authority may enter into a written cost-reimbursement agreement  
33 with a permit applicant for a complex project to recover from the  
34 applicant the reasonable costs incurred by the authority in carrying  
35 out the requirements of this chapter, as well as the requirements of  
36 other relevant laws, as they relate to permit coordination,  
37 environmental review, application review, technical studies, and permit  
38 processing. The cost-reimbursement agreement shall identify the

1 specific tasks, costs, and schedule for work to be conducted under the  
2 agreement. For purposes of this section, a complex project is a  
3 project for which an environmental impact statement is required under  
4 chapter 43.21C RCW.

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

33 (3) An air pollution control authority may not enter into any new  
34 cost-reimbursement agreements on or after July 1, 2005. The department  
35 may continue to administer any cost-reimbursement agreement which was  
36 entered into before July 1, 2005, until the project is completed.

37 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.44 RCW  
38 to read as follows:

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

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

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

21 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.

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