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SECOND SUBSTITUTE HOUSE BILL 2671

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State of Washington

57th Legislature

2002 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Linville, Romero, Reardon, Simpson, Gombosky, Grant, Veloria, Kessler, Conway, Doumit, Hatfield, Ogden, Morris, Kenney, Dickerson, Edwards, Chase, Schual-Berke, Wood, Rockefeller, Jackley, Kagi and McDermott)

Read first time 02/12/2002. Referred to Committee on .

1 AN ACT Relating to a permit assistance center within the department  
2 of ecology; adding new sections to chapter 43.131 RCW; adding a new  
3 chapter to Title 90 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the health and  
6 safety of its citizens, natural resources, and the environment are  
7 vital interests of the state that must be protected to preserve the  
8 state's quality of life. The legislature also finds that the state's  
9 economic well-being is a vital interest that depends upon the  
10 development of fair, coordinated environmental permitting processes  
11 that ensure that the state not only protects natural resources, but  
12 also encourages appropriate activities that stimulate growth and  
13 development. The legislature further finds that during the past twenty  
14 years, Washington's environmental protection programs have established  
15 strict standards to reduce pollution and protect public health and  
16 safety and the environment.

17 The legislature finds that as the number of environmental and land  
18 use laws have grown in Washington, so have the number of permits  
19 required of business and government. The increasing number of

1 individual permits and permit authorities has generated the potential  
2 for conflict, overlap, and duplication between the various state,  
3 local, and federal permits. Lack of coordination in the processing of  
4 permit applications may cause costly delays and frustration to the  
5 applicant.

6 The legislature finds that not all project applicants require the  
7 same type of technical assistance. While applicants with small  
8 projects may merely need information about local and state permits, and  
9 assistance in applying for those permits, intermediate-sized projects  
10 may require a facilitated facilitating permit process. Large, complex  
11 projects may even need extensive coordination among local, state, and  
12 federal agencies.

13 The legislature finds that a range of assistance and coordination  
14 options should be available for project applicants. The legislature  
15 further finds that citizens should be provided with a reliable and  
16 consolidated source of information concerning federal, state, and local  
17 environmental and land use laws and procedures that might apply to any  
18 given proposal; facilitated interagency forums for discussion of  
19 significant issues related to the multiple permitting processes can be  
20 very useful for some project proponents; and finally, some applicants  
21 may require active coordination of all applicable regulatory and land  
22 use permitting procedures.

23 The legislature declares that the purpose of this chapter is to  
24 provide efficient processes that will assist businesses and citizens in  
25 complying with the environmental and land use laws while protecting  
26 public health and safety and the environment.

27 NEW SECTION. **Sec. 2.** The definitions in this section apply  
28 throughout this chapter unless the context clearly requires otherwise.

29 (1) "Center" means the permit assistance center established in  
30 section 3 of this act.

31 (2) "Permit" includes any license, certificate, registration,  
32 permit, or other form of use authorization required by a permit agency  
33 to engage in a particular activity.

34 (3) "Project" means an activity, the conduct of which requires  
35 permits from one or more permit agencies.

36 (4) "Use authorization" means a lease, material purchase, easement,  
37 permit, or other document authorizing the use of either state-owned  
38 aquatic lands or materials, or both.

1        NEW SECTION.    **Sec. 3.**    (1) The permit assistance center is created  
2 in the office of the governor.    The center shall:

3        (a) Publish and keep current one or more handbooks containing lists  
4 and explanations of all permit laws.    To the extent possible, the  
5 handbook must include relevant local, state, federal, and tribal laws.  
6 A state agency or local government must provide a reasonable number of  
7 copies of application forms, statutes, ordinances, rules, handbooks,  
8 and other informational material requested by the center and must  
9 otherwise fully cooperate with the center.    The center must seek the  
10 cooperation of relevant federal agencies and tribal governments;

11        (b) Establish, and make known, a point of contact for distribution  
12 of the handbook and advice to the public as to its interpretation in  
13 any given case;

14        (c) Work closely and cooperatively with the business license center  
15 in providing efficient and nonduplicative service to the public;

16        (d) Collect and disseminate information to public and private  
17 entities on federal, state, local, and tribal government programs that  
18 rely on private professional expertise to assist governmental agencies  
19 in project permit review; and

20        (e) Provide an annual performance report to the legislature and the  
21 public.    The report must be based on survey of customers.

22        (2) The center must prioritize the expenditure of general fund  
23 moneys allotted to the center to provide a set of services to the  
24 applicants of small projects.

25        (3) The center shall work with state resource agencies, the  
26 governor's office, local government officials, and the department of  
27 community, trade, and economic development to create a range of permit  
28 assistance options for permit applicants.    These options include, but  
29 are not limited to, a centralized customer call center, a web site for  
30 permitting information, facilitation services offered on a regional  
31 basis, and a process for developing a coordinated permit process  
32 utilizing a cost reimbursement system authorized under section 7 of  
33 this act.

34        (4) The center shall also work to develop informal processes for  
35 dispute resolution between agencies and permit applicants.

36        (5) To the maximum extent possible, the center shall work with the  
37 transportation permit efficiency and accountability committee  
38 established by chapter 47.06C RCW.

1        NEW SECTION.    **Sec. 4.**    The center shall operate based on the  
2 principle that citizens of the state of Washington have the following  
3 rights when asking for a permit, license, or permission to engage in a  
4 lawful activity:

5            (1) The right to a date in time for a decision on permits;

6            (2) The right to be notified of the information required by the  
7 permitting agency or authorizing agency in order to accept a completed  
8 application or issue a final decision; and

9            (3) The right to know the maximum amount of costs in fees, studies,  
10 or public processes that will be incurred by the permit applicant.

11        NEW SECTION.    **Sec. 5.**    (1) Upon the request of a project proponent,  
12 the center shall appoint a project facilitator to assist the applicant  
13 in determining which regulatory requirements, processes, and permits  
14 may be required for development and operation of the proposed project.  
15 The project facilitator shall provide the information to the applicant  
16 and explain the options available to the applicant in obtaining the  
17 required permits.

18            (2) If requested by the applicant, the project facilitator shall  
19 facilitate a project scoping meeting.    The meeting may involve the  
20 project applicant, state agencies that will require a permit or use  
21 authorization for the project, and the local governments in whose  
22 jurisdiction the project is proposed.    Federal agencies and tribal  
23 governments that either issue or may require a permit, or that may  
24 require a use authorization for the project, shall each be invited to  
25 participate in the scoping meeting.    All agencies participating in the  
26 scoping process are encouraged to remain in communication for purposes  
27 of coordination throughout the subsequent permit review processes until  
28 final permit decisions are made.

29            (3) The purpose of the scoping meeting is to share perspectives and  
30 identify the issues and information needs of concern to each  
31 participant with regard to the proposed project, and jointly develop a  
32 strategy for managing the permitting process.    This project scoping  
33 process must be concluded within sixty days of the applicant's request.

34            (a) During this review, the permit agencies shall identify:

35            (i) The permits that are required for the project;

36            (ii) A review of the permit application forms and other application  
37 requirements of the agencies that are participating in the scoping  
38 meeting;

1 (iii) The specific information needs and issues of concern and  
2 their significance to each participant with regard to the permitting  
3 processes involved;

4 (iv) Any statutory or regulatory conflicts that might arise  
5 relating to differing legal authorities and roles of the agencies  
6 issuing the permit or use authorization of the project;

7 (v) Any state or local jurisdiction or private sector liability  
8 that might result from permitting or issuing a use authorization for  
9 the project;

10 (vi) Any natural resources, including federal or state listed  
11 species, that might be adversely affected by the permitting or  
12 authorizing decision; and

13 (vii) The permit decision timelines that will be used by each  
14 permit agency, including the time periods required to determine if the  
15 permit applications are complete, to review the application or  
16 applications, and to process the component permits. In the development  
17 of this timeline, full attention must be given to achieving the maximum  
18 efficiencies possible through concurrent studies, consolidated  
19 applications, hearings, and comment periods.

20 (b) Following this project scoping review, the outcome shall be  
21 documented in written form and furnished to the applicant, and be  
22 available to the public.

23 (c) Upon completion of this review, the permitting and authorizing  
24 agencies and governments shall proceed according to their respective  
25 statutes.

26 NEW SECTION. **Sec. 6.** (1) Upon request, a permit applicant may  
27 also request that the center actively coordinate the project permitting  
28 processes. This process shall be implemented through a cost  
29 reimbursement contract developed under section 7 of this act.

30 (2) According to the specific requirements contained in a cost  
31 reimbursement contract, the center may convene a scoping meeting as  
32 outlined in section 5 of this act, serve as the main point of contact  
33 for the permit applicant with regard to the coordinated permit  
34 processes for the project, and manage the procedural aspects of that  
35 processing consistent with existing laws. In carrying out these  
36 responsibilities, the center shall ensure that the permit applicant has  
37 all the information needed to apply for all the component permits that  
38 are incorporated in the coordinated permit process for the project,

1 coordinate the review of those permits by the permit agencies, ensure  
2 that timely permit decisions are made by the permit agencies, and  
3 assist in resolving any conflict or inconsistency among the permit  
4 requirements and conditions that are to be imposed by the permit  
5 agencies. The center shall maintain contact with the applicant and  
6 local, state, and federal permit agencies to ensure that the process is  
7 progressing as scheduled.

8 (3) Upon completion of the cost reimbursement contract, each permit  
9 agency shall send at least one representative qualified to make  
10 decisions concerning the applicability and timelines associated with  
11 all permits administered by that jurisdiction. At the request of the  
12 applicant, the center shall notify any relevant federal agency or  
13 federally recognized tribe of the date of the meeting and invite that  
14 agency's participation in the process.

15 (4) If a permit agency or the applicant foresees, at any time, that  
16 it will be unable to meet its obligations under the agreement, it shall  
17 notify the center of the problem. The center shall notify the permit  
18 agencies and the applicant and, upon agreement of all parties, adjust  
19 the schedule, or, if necessary, schedule another work plan meeting.

20 (5) This chapter may not be construed to limit or abridge the  
21 powers and duties granted to any permit agency under the law that  
22 authorizes or requires the agency to issue a permit or a use  
23 authorization for a project.

24 NEW SECTION. **Sec. 7.** (1) The center shall negotiate a method of  
25 determining, collecting, and distributing permit fees and cost  
26 reimbursement for the costs associated with carrying out the purposes  
27 of this chapter, including the use of existing fees as set by statute  
28 or administrative rule.

29 (2) The center may enter into a written agreement with the  
30 applicant to recover from the applicant the reasonable costs incurred  
31 by the center and permit agencies in carrying out the requirements of  
32 this chapter.

33 (3) The center may enter into a written agreement with the  
34 applicant to recover from the applicant the reasonable costs incurred  
35 by outside independent consultants selected by the center and permit  
36 agencies to perform permit review and processing tasks consistent with  
37 the coordinated permit process.

1 (4) The center and outside independent consultants may recover only  
2 the costs of performing those permit services that are coordinated  
3 through the one-stop coordinated permitting process established under  
4 this chapter. The billing process must provide for accurate time and  
5 cost accounting and may include a billing cycle that provides for  
6 progress payments.

7 (5) Prior to providing reimbursement or fees to participating  
8 permit agencies under this chapter, the center shall ensure that the  
9 participating permit agencies have made all the permit decisions that  
10 are necessary for the incorporation of the permits into the coordinated  
11 permit process and act on the component permits within the time periods  
12 agreed to by the participating permit agencies under the process  
13 outlined in section 6 of this act.

14 (6) The center shall adopt a policy to administer cost  
15 reimbursement agreements executed under this section. Cost  
16 reimbursement agreements administered by the center under this section  
17 must be based on competitive bids that are awarded for each agreement  
18 to the responsible bidder from a prequalified consultant roster that  
19 submitted the lowest responsive bid as described in RCW 43.19.1911.

20 (7) Prior to entering negotiation with the applicant on cost  
21 reimbursement, the center shall request work load analyses for the  
22 permits from each permitting agency. These analyses shall be available  
23 to the public. The center may only agree to reduce work load if there  
24 is a good cause to do so and there is no significant impact on  
25 environmental review.

26 (8) If independent consultants are hired under the cost  
27 reimbursement agreement, they shall report directly to the permitting  
28 agency.

29 (9) The center shall develop guidance to ensure that, in developing  
30 cost reimbursement agreements, conflict of interest problems are  
31 eliminated.

32 NEW SECTION. **Sec. 8.** (1) There is established the permit  
33 assistance advisory council composed of eleven members. Seven members  
34 shall be appointed by the governor. In making these appointments, the  
35 governor shall include representation from business, the environmental  
36 community, agriculture, port districts, counties, cities, and the  
37 tribes. Two members shall be members of the senate selected by the  
38 president of the senate with one member selected from each caucus in

1 the senate, and two members shall be members of the house of  
2 representatives selected by the speaker of the house of representatives  
3 with one member selected from each caucus in the house of  
4 representatives. The legislative members shall be nonvoting members of  
5 the council. Appointments to the council shall reflect geographical  
6 balance and the diversity of population within Washington state.  
7 Members shall serve four-year terms. Of the initial members appointed  
8 to the council, two shall serve for two years, two shall serve for  
9 three years, and two shall serve for four years. Thereafter members  
10 shall be appointed to four-year terms. Vacancies shall be filled by  
11 appointment in the same manner as the original appointment for the  
12 remainder of the unexpired term of the position being vacated.  
13 Nonlegislative members shall be reimbursed for travel expenses as  
14 provided in RCW 43.03.050 and 43.03.060. Legislative members shall be  
15 reimbursed as provided in RCW 44.04.120.

16 (2) The council shall elect a chair and a vice-chair from the  
17 voting members of the committee. The chair and vice-chair shall serve  
18 a term of one year.

19 (3) The council shall:

20 (a) Assess the performance of the center;

21 (b) Review annual customer surveys conducted by the center to  
22 determine the effectiveness of the center; and

23 (c) Recommend changes to the services provided by the center to  
24 enhance technical assistance to permit applicants.

25 (4) The council shall meet at least four times per year.

26 NEW SECTION. **Sec. 9.** (1) The powers, duties, and functions of the  
27 permit assistance center at the department of ecology are transferred  
28 to the center created in section 3 of this act.

29 (2)(a) All reports, documents, surveys, books, records, files,  
30 papers, or written material in the possession of the department of  
31 ecology pertaining to the powers, functions, and duties transferred  
32 shall be delivered to the custody of the center. All cabinets,  
33 furniture, office equipment, motor vehicles, and other tangible  
34 property employed by the department of ecology in carrying out the  
35 powers, functions, and duties transferred shall be made available to  
36 the center. All funds, credits, or other assets held in connection  
37 with the powers, functions, and duties transferred shall be assigned to  
38 the center.



1 (b) Any appropriations made to the department of ecology for  
2 carrying out the powers, functions, and duties transferred shall, on  
3 June 30, 2002, be transferred and credited to the center.

4 (c) Whenever any question arises as to the transfer of any  
5 personnel, funds, books, documents, records, papers, files, equipment,  
6 or other tangible property used or held in the exercise of the powers  
7 and the performance of the duties and functions transferred, the  
8 director of financial management shall make a determination as to the  
9 proper allocation and certify the same to the state agencies concerned.

10 (3) All rules and all pending business before the department of  
11 ecology pertaining to the powers, functions, and duties transferred  
12 shall be continued and acted upon by the center. All existing  
13 contracts and obligations shall remain in full force and shall be  
14 performed by the center.

15 (4) The transfer of the powers, duties, functions, and personnel of  
16 the authority shall not affect the validity of any act performed before  
17 June 30, 2002.

18 (5) If apportionments of budgeted funds are required because of the  
19 transfers directed by this section, the director of financial  
20 management shall certify the apportionments to the agencies affected,  
21 the state auditor, and the state treasurer. Each of these shall make  
22 the appropriate transfer and adjustments in funds and appropriation  
23 accounts and equipment records in accordance with the certification.

24 NEW SECTION. **Sec. 10.** Nothing in this chapter affects the  
25 jurisdiction of the energy facility site evaluation council as provided  
26 in chapter 80.50 RCW.

27 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.131  
28 RCW to read as follows:

29 The permit assistance center and its powers and duties terminates  
30 June 30, 2007, as provided in section 12 of this act.

31 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.131  
32 RCW to read as follows:

33 The following acts or parts of acts, as now existing or hereafter  
34 amended, are each repealed, effective June 30, 2008:

35 (1) Section 1 of this act;

36 (2) Section 2 of this act;

1 (3) Section 3 of this act;  
2 (4) Section 4 of this act;  
3 (5) Section 5 of this act;  
4 (6) Section 6 of this act;  
5 (7) Section 7 of this act;  
6 (8) Section 8 of this act;  
7 (9) Section 9 of this act; and  
8 (10) Section 10 of this act.

9 NEW SECTION. **Sec. 13.** Sections 1 through 10 of this act  
10 constitute a new chapter in Title 90 RCW.

11 NEW SECTION. **Sec. 14.** If specific funding for the purposes of  
12 this act, referencing this act by bill or chapter number, is not  
13 provided by June 30, 2002, in the omnibus appropriations act, this act  
14 is null and void.

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