

HOUSE BILL REPORT

E2SHB 2631

As Passed House:
February 14, 2008

Title: An act relating to the office of regulatory assistance.

Brief Description: Regarding the office of regulatory assistance.

Sponsors: By House Committee on Apps Subcom GG (originally sponsored by Representatives Linville, Kretz and Sullivan).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 1/25/08, 2/1/08 [DPS];
Appropriations Subcommittee on General Government & Audit Review: 2/7/08[DP2S(w/o sub SGTA)].

Floor Activity:

Passed House: 2/14/08, 94-0.

Brief Summary of Engrossed Second Substitute Bill

- Clarifies that the Office of Regulatory Assistance's (ORA) Legislative mandate is to assist and improve.
- Redefines the ORA's project assistance services to provide different levels of service or projects of different size and complexity.
- Reinstates the coordinated permit process.
- Requires the ORA to report to the Legislature biennially with recommendations on system improvement.
- Makes changes for cost-reimbursement agreements and agency use of such agreements.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Kretz, Lias, Miloscia and Ormsby.

Staff: Colleen Kerr (786-7168).

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT & AUDIT REVIEW

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on State Government & Tribal Affairs. Signed by 14 members: Representatives Linville, Chair; Ericks, Vice Chair; Armstrong, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Alexander, Blake, Chandler, Kretz, Lantz, Lias, Miloscia, Morris, Nelson and Van De Wege.

Staff: Owen Rowe (786-7391).

Background:

The Washington State Office of Regulatory Assistance (ORA) was created in the Office of Financial Management in 2003 as an expansion of the Office of Permit Assistance. The ORA helps answer permitting questions and provides access to information about state regulations. In addition, the ORA assists with coordinating between the layers of state, local, and federal permit review.

The ORA has two primary ways it delivers its services: a regulatory help desk assisting approximately 2,000 callers per year; and case managers located in regional offices who facilitate, coordinate, and help resolve disputes that can arise in permitting. The ORA acts as an informal coordinating agency for the permitting processes at the Department of Ecology, the Department of Fish and Wildlife, the Department of Natural Resources, and the Department of Health.

The ORA's 2003 authorizing statute includes a sunset date of June 30, 2007. The Joint Legislative Audit and Review Committee (JLARC) submitted its sunset review on January 4, 2007. That review recommended extending the ORA's sunset date to 2011 and that the ORA should develop an implementation plan to remedy the agency's lack of information about its activities. The JLARC also recommended that the ORA should report to the Legislature to demonstrate performance and compliance with statutory duties.

The Legislature reauthorized the ORA in the 2007 Legislative Session and extended its sunset date to 2011. In addition, it expanded required reporting to include the negotiation and implementation of voluntary cost-reimbursement agreements. The first report is due on June 1, 2008, and biennially thereafter. Further, separate Legislation expanded the ORA's duties to include assisting local jurisdictions by providing information about best practices in

complying with permit timeline requirements and by providing technical assistance in reducing the turnaround time between submittal and issuance of a development permit.

Summary of Engrossed Second Substitute Bill:

Legislative Mandate

The Office of Regulatory Assistance (ORA) is created to continually improve the function of the state's environmental and business regulatory system by identifying conflicts and overlap in the state's rules, statutes, and operational procedures. The ORA is also created to provide businesses with active assistance for all permitting, licensing, and other regulatory procedures required for completion of specific projects. The ORA is also created to ensure that citizens, businesses, and local governments have access to, and clear information regarding, regulatory processes for permitting and business regulation, including state rules, permit and license requirements, and agency rule-making processes.

Services for Project Proponents

The ORA will provide project applicants with pre-application project scoping services at the request of the project applicant. Pre-application project scoping is to identify relevant issues to the proposed project, including, among other things, required permits as well as necessary forms and approximate timelines.

The ORA will also provide project facilitation services as either a stand-alone event or as an element of broader project facilitation, interagency coordination, or planning teams. Project facilitation services are to address issues regarding inter-jurisdictional permitting issues, project-related conflict and dispute resolution, and may be done using cost-reimbursement or without cost-reimbursement by designation of the director.

The ORA will provide coordinated permit process services to project applicants at their request. Through the coordinated permit process, the ORA will act as the main point of contact for the project proponent as well as for the permitting agencies and manage the procedural aspects of the project consistent with existing law. Within 30 days of a coordinated permit process designation of relevant cost-reimbursement agreement, the ORA must convene a meeting of the appropriate permitting agencies. Such meetings must also be convened within 21 days after every permit decision or at least every nine months unless this requirement is waived by the project proponents. The agenda at such meetings must include timelines regarding permit processing and a review of permit requirements and application forms.

Cost-reimbursement

Cost-reimbursement statutes are modified so that the ORA and its affiliated permitting agencies may use cost-reimbursement to hire temporary employees, contract employees, independent consultants, or make internal administrative changes so as not to negatively affect the agency's project management or permit processing capacity. Additionally, cost-reimbursement agreements through the ORA must include a detailed payment schedule that includes the:

- average number of weeks for initial review;

- anticipated number of revision cycles;
- the average number of weeks for subsequent review cycles;
- estimates number of hours of employee time;
- the rate per hour; and
- a date for revision of the agreement if necessary.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony: (State Government & Tribal Affairs)

(In support) The bill gives ORA the foundation from which to move forward to do regulatory improvement and comprehensive project assistance. The changes reflect the work ORA is currently doing so that it can build upon its strengths and successes. It also opens the door for conversation with the Legislature by requiring both performance reports from ORA and reports that highlight places where the regulatory system is breaking down.

Reinstating the coordinate permit process is a positive step by the Legislature that will help both agencies and project proponents to work better with ORA on project management around controversial, complex, or big projects. The ORA is already effective, but this gives it the framework to be more effective. The ORA is necessary for businesses to navigate the system and for the system itself to work. The coordinated permit process provides a comprehensive tool for understanding natural resources and environmental permitting.

Ideally, this bill will be the foundation for the Legislature to take a substantive look at additional changes and corrections to the laws that create the permitting system. Rather than ORA being a forum, it should be providing direction for improving the system.

The changes to the statutory provisions for cost-reimbursement are very timely. The current law is not clear and is not a tool for ORA, the agencies, or the project proponents.

(In support with amendment) The ORA should provide direction and resources for improving the regulatory system rather than simply acting as a forum.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations Subcommittee on General Government & Audit Review)

None.

Persons Testifying: (State Government & Tribal Affairs)

Persons Testifying: (In support) Representative Linville, prime sponsor; Representative Kretz; Faith Lumsden, Office of Regulatory Assistance; Jerry Smedes, Northwest Environmental Business Council; Polly Zehm, Department of Ecology; and Greg Hueckel, Washington Department of Fish and Wildlife.

(In support with amendment) Rick Slunaker, Associated General Contractors.

Persons Testifying: (Appropriations Subcommittee on General Government & Audit Review) None.

Persons Signed In To Testify But Not Testifying: (State Government & Tribal Affairs) None.

Persons Signed In To Testify But Not Testifying: (Appropriations Subcommittee on General Government & Audit Review) None.