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**SUBSTITUTE HOUSE BILL 2107**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Schual-Berke, B. Sullivan, Blake, Newhouse, Dickerson, Strow, Kagi, Orcutt, McCoy, Cody and VanDeWege)

READ FIRST TIME 02/28/07.

1            AN ACT Relating to innovative settlement agreements; amending RCW  
2 90.48.037; and adding a new section to chapter 90.48 RCW.

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

4            **Sec. 1.** RCW 90.48.037 and 1991 c 200 s 1102 are each amended to  
5 read as follows:

6            (1) The department, with the assistance of the attorney general, is  
7 authorized to bring any appropriate action at law or in equity,  
8 including action for injunctive relief, in the name of the people of  
9 the state of Washington as may be necessary to carry out the provisions  
10 of this chapter or chapter 90.56 RCW.

11            (2) The department, with the assistance of the attorney general, is  
12 authorized to consider the option of an innovative settlement agreement  
13 in lieu of appeal for all violators of this chapter or chapter 90.56  
14 RCW except in cases of:

15            (a) Criminal violations;

16            (b) Cases where the violation is not corrected; or

17            (c) Violators that have unpaid penalties under this chapter or  
18 chapter 90.56 RCW.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 90.48 RCW  
2 to read as follows:

3        (1)    The department is authorized to consider an innovative  
4 settlement agreement in lieu of appeal prepared by violators of this  
5 chapter or chapter 90.56 RCW who choose not to appeal the penalty.  
6 Nothing in this section restricts the department's ability to enter  
7 into innovative settlement agreements after the appeals process has  
8 begun.

9        (2)    An innovative settlement agreement must meet the following  
10 standards:

11        (a)    The request to proceed with an innovative settlement agreement  
12 in lieu of appeal must be made within thirty days after the date of  
13 receipt of the notice imposing the penalty, or thirty days after the  
14 date of receipt of the notice of disposition of the application for  
15 relief from penalty.

16        (b)    The innovative settlement agreement must be agreed upon with  
17 the department within ninety days after beginning the settlement  
18 process.

19        (i)    The ninety-day timeline may be extended to one hundred twenty  
20 days by mutual agreement.

21        (ii)   If the innovative settlement agreement is not agreed upon  
22 within one hundred twenty days, the penalty becomes due and payable.

23        (3)    An innovative settlement agreement must meet the following  
24 standards:

25        (a)    It must be completed within two years;

26        (b)    It cannot be for projects currently required under any federal,  
27 state, or local law or regulation;

28        (c)    It must be within the same watershed where the violation took  
29 place;

30        (d)    It must not directly benefit the violator individually;

31        (e)    The total monetary or in-kind payments must be equal to the  
32 assessed penalty;

33        (f)    Twenty percent of the assessed penalty must be deposited into  
34 the coastal protection fund, created in RCW 90.48.390;

35        (g)    All publicity occurring as a result of this project must cite  
36 the penalty assessed and the resulting innovative settlement agreement;  
37 and

1           (h) No portion of the penalty money, in-kind contributions, or  
2 project may be tax deductible as a charitable contribution.

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