
SUBSTITUTE SENATE BILL 5122

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Rockefeller and Swecker; by request of Office of Financial Management)

READ FIRST TIME 01/30/07.

1 AN ACT Relating to preserving the current regulatory assistance
2 program with cost reimbursement changes; amending RCW 43.42.005,
3 43.42.010, 43.42.020, 43.42.030, 43.42.040, 43.42.050, 43.42.060,
4 43.42.070, 43.42.080, 43.21A.690, 43.30.490, 43.70.630, 43.300.080,
5 70.94.085, 43.131.401, and 43.131.402; creating a new section;
6 decodifying RCW 43.42.905; and declaring an emergency.

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

8 **Sec. 1.** RCW 43.42.005 and 2003 c 71 s 1 are each amended to read
9 as follows:

10 (1) The legislature finds that the health and safety of its
11 citizens, natural resources, and the environment are vital interests of
12 the state that must be protected to preserve the state's quality of
13 life. The legislature also finds that the state's economic well-being
14 is a vital interest that depends upon the development of fair,
15 accessible, and coordinated permitting and regulatory (~~processes~~)
16 requirements that ensure that the state not only protects public health
17 and safety and natural resources but also encourages appropriate
18 activities that stimulate growth and development. The legislature

1 further finds that Washington's permitting and regulatory programs have
2 established strict standards to protect public health and safety and
3 the environment.

4 (2) The legislature also finds that, as the number of environmental
5 and land use laws and requirements have grown in Washington, so have
6 the number of permits required of business and government. The
7 increasing number of ~~((individual))~~ permits and ~~((permit))~~ permitting
8 agencies has generated the potential for conflict, overlap, and
9 duplication among ~~((various))~~ state, local, and federal ~~((permits-~~
10 ~~Lack of coordination in the processing of project applications may~~
11 ~~cause costly delays and frustration to applicants))~~ permitting and
12 regulatory requirements.

13 (3) The legislature further finds that not all project
14 ~~((applicants))~~ proponents require the same type of assistance.
15 ~~((Applicants))~~ Proponents with small projects may merely need
16 information ~~((about local and state permits))~~ and assistance in
17 ~~((applying for those permits))~~ starting the permitting and application
18 process, while intermediate-sized projects may require more of a
19 facilitated ~~((permit))~~ and periodically assisted permitting process,
20 and large complex projects may need extensive and more continuous
21 coordination among local, state, and federal agencies and tribal
22 governments.

23 (4) The legislature further finds that persons doing business in
24 Washington state should have access to clear and appropriate
25 information regarding ~~((state))~~ regulations, permit requirements, and
26 agency rule-making processes.

27 (5) The legislature, therefore, finds that a range of assistance
28 and coordination options should be available to project ~~((applicants))~~
29 proponents from a state office independent of any local, state, or
30 federal permit agency. The legislature finds that citizens,
31 businesses, and project ~~((applicants))~~ proponents should be provided
32 with:

33 (a) A reliable and consolidated source of information concerning
34 federal, state, and local environmental and land use laws and
35 procedures that may apply to any given project;

36 (b) Facilitated interagency forums for discussion of significant
37 issues related to the multiple permitting processes if needed for some
38 project ~~((applicants))~~ proponents; and

1 (c) Active coordination of all applicable regulatory and land use
2 permitting procedures if needed for some project (~~(applicants)~~)
3 proponents.

4 (6) The legislature declares that the purpose of this chapter is to
5 (~~(transfer the existing permit assistance center in the department of~~
6 ~~ecology to a new office of permit assistance in the office of financial~~
7 ~~management to)~~):

8 (a) Assure that citizens, businesses, and project (~~(applicants)~~)
9 proponents will continue to be provided with vital information
10 regarding environmental and land use laws and with assistance in
11 complying with environmental and land use laws to promote understanding
12 of these laws and to protect public health and safety and the
13 environment;

14 (b) Ensure that facilitation of project permit decisions by permit
15 agencies promotes both process efficiency and environmental protection;

16 (c) Allow for coordination of permit processing for large projects
17 upon project (~~(applicants')~~) proponents' request and at project
18 (~~(applicants')~~) proponents' expense to promote efficiency, ensure
19 certainty, and avoid conflicts among permit agencies; and

20 (d) Provide these services through an office independent of any
21 permit agency to ensure that any potential or perceived conflicts of
22 interest related to providing these services or making permit decisions
23 can be avoided.

24 (7) The legislature also declares that the purpose of this chapter
25 is to provide citizens of the state with access to information
26 regarding state regulations, permit requirements, and agency rule-
27 making processes in Washington state.

28 (8) The legislature intends that establishing an office of
29 regulatory assistance will provide these services without abrogating or
30 limiting the authority of any (~~(permit)~~) agency to make decisions on
31 permits and regulatory requirements that it (~~(issues)~~) requires or any
32 rule-making agency to make decisions on regulations. The legislature
33 therefore declares that the office of regulatory assistance shall have
34 authority to provide these services but shall not have any authority to
35 make decisions on permits.

36 **Sec. 2.** RCW 43.42.010 and 2003 c 71 s 2 are each amended to read
37 as follows:

1 (1) The office of regulatory assistance is created in the office of
2 financial management and shall be administered by the office of the
3 governor to assist citizens, businesses, and project ~~((applicants))~~
4 proponents.

5 (2) The office shall:

6 (a) Maintain and furnish information as provided in RCW 43.42.040;

7 (b) Furnish facilitation as provided in RCW 43.42.050;

8 (c) Furnish coordination as provided in RCW 43.42.060;

9 (d) Coordinate cost reimbursement as provided in RCW 43.42.070;

10 (e) Work with ~~((state))~~ governmental agencies ~~((and—local~~
11 ~~governments))~~ to continue to develop a range of ~~((permit))~~ permitting
12 and regulatory assistance options for project ~~((applicants))~~
13 proponents;

14 ~~((f))~~ ~~((Review initiatives developed by the transportation permit~~
15 ~~efficiency and accountability committee established in chapter 47.06C~~
16 ~~RCW and determine if any would be beneficial if implemented for other~~
17 ~~types of projects;~~

18 ~~((g))~~ Work to develop informal processes for dispute resolution
19 between agencies and permit ~~((applicants))~~ proponents;

20 ~~((h))~~ ~~((g))~~ Conduct customer surveys to evaluate its effectiveness;
21 and

22 ~~((i))~~ ~~((h))~~ Provide the following ~~((biennial))~~ reports by June 1,
23 2008, and biennially thereafter, to the governor and the appropriate
24 committees of the legislature:

25 (i) A performance report, based on the customer surveys required in
26 ~~((h))~~ ~~((g))~~ of this subsection;

27 (ii) A report on any ~~((statutory or regulatory))~~ conflicts
28 identified by the office in the course of its duties ~~((that arise))~~
29 arising from differing ~~((legal))~~ statutory or regulatory authorities
30 ~~((and)),~~ roles and missions of agencies, timing and sequencing of
31 permitting and procedural requirements, or otherwise, and how these
32 were resolved~~((— The report may include recommendations to the~~
33 ~~legislature and to agencies));~~ and

34 (iii) A report regarding negotiation and implementation of
35 voluntary cost-reimbursement agreements and use of outside independent
36 consultants under RCW 43.42.070, including the nature and amount of
37 work performed and implementation of requirements relating to costs.

1 (5) "Project ((applicant)) proponent" means a citizen, business, or
2 any entity applying for or seeking a permit or permits in the state of
3 Washington.

4 **Sec. 5.** RCW 43.42.040 and 2003 c 71 s 4 are each amended to read
5 as follows:

6 (1) The office shall assist citizens, businesses, and project
7 ((applicants)) proponents by maintaining and furnishing information,
8 including, but not limited to:

9 (a) To the extent possible, compiling and periodically updating one
10 or more handbooks containing lists and explanations of permit laws,
11 including all relevant local, state, federal, and tribal laws. In
12 providing this information, the office shall seek the cooperation of
13 relevant local, state, and federal agencies and tribal governments;

14 (b) Establishing and providing notice of a point of contact for
15 obtaining information;

16 (c) Working closely and cooperatively with ((the)) business license
17 centers ((in providing)) to provide efficient and nonduplicative
18 service; and

19 ~~((Collecting and making available information regarding~~
20 ~~federal, state, local, and tribal government programs that rely on~~
21 ~~private professional expertise to assist agencies in project permit~~
22 ~~review; and~~

23 ~~(e))~~ Developing a ((call)) service center and a web site.

24 (2) The office shall coordinate among state agencies to develop an
25 office web site that is linked through the office of the governor's web
26 site and that contains information regarding permitting and regulatory
27 requirements for businesses and citizens in Washington state. At a
28 minimum, the web site shall provide information or links to information
29 on:

30 (a) Federal, state, and local rule-making processes and ((permit))
31 permitting and regulatory requirements applicable to Washington
32 businesses and citizens;

33 (b) Federal, state, and local licenses, permits, and approvals
34 necessary to start and operate a business or develop real property in
35 Washington;

36 (c) State and local building codes;

1 (d) Federal, state, and local economic development programs that
2 may be available to businesses in Washington; and

3 (e) State and local agencies regulating or providing assistance to
4 citizens and businesses operating a business or developing real
5 property in Washington.

6 (3) This section does not create an independent cause of action,
7 affect any existing cause of action, or create any new cause of action
8 regarding the application of regulatory or permit requirements.

9 **Sec. 6.** RCW 43.42.050 and 2003 c 54 s 4 are each amended to read
10 as follows:

11 At the request of a project (~~(applicant)~~) proponent, the office
12 shall assist the project (~~(applicant)~~) proponent in determining what
13 regulatory requirements, processes, and permits apply to the project,
14 as provided in this section.

15 (1) The office shall assign a project facilitator who shall discuss
16 applicable regulatory requirements, permits, and processes with the
17 project (~~(applicant)~~) proponent and explain the available options for
18 obtaining required permits and regulatory review.

19 (2) If the project (~~(applicant)~~) proponent and the project
20 facilitator agree that the project would benefit from a project
21 scoping, (~~(or if the project is an industrial project of statewide~~
22 ~~significance, as defined in RCW 43.157.010,)~~) the project facilitator
23 shall conduct a project scoping (~~(by)~~) with the project (~~(applicant)~~)
24 proponent and the relevant (~~(state and local permit)~~) permitting and
25 regulatory agencies. The project facilitator shall invite the
26 participation of the relevant federal (~~(permit)~~) agencies and tribal
27 governments.

28 (a) The purpose of the project scoping is to identify the issues
29 and information needs of the project (~~(applicant)~~) proponent and the
30 participating permit agencies regarding the project, share
31 perspectives, and jointly develop a strategy for the processing of
32 required permits by each participating permit agency.

33 (b) The scoping shall address:

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

35 (ii) The permit application forms and other application
36 requirements of the participating permit agencies;

1 (iii) The specific information needs and issues of concern of each
2 participant and their significance;

3 (iv) Any statutory or regulatory conflicts that might arise from
4 the differing authorities and roles of the permit agencies;

5 (v) Any natural resources, including federal or state listed
6 species, that might be adversely affected by the project and might
7 cause an alteration of the project or require mitigation; and

8 (vi) The anticipated time required for permit decisions by each
9 participating permit agency, including the time required to determine
10 if the permit application is complete, to conduct environmental review,
11 and to review and process the application. In determining the time
12 required, full consideration must be given to achieving the greatest
13 possible efficiencies through any concurrent studies and any
14 consolidated applications, hearings, and comment periods.

15 (c) The outcome of the project scoping shall be documented in
16 writing, furnished to the project (~~(applicant)~~) proponent, and be made
17 available to the public.

18 (d) The project scoping shall be completed within sixty days of the
19 project (~~(applicant's)~~) proponent's request for a project scoping.

20 (e) Upon completion of the project scoping, the participating
21 permit agencies shall proceed under their respective authority. The
22 agencies are encouraged to remain in communication for purposes of
23 coordination until their final permit decisions are made.

24 (3) This section does not create an independent cause of action,
25 affect any existing cause of action, or establish time limits for
26 purposes of RCW 64.40.020.

27 **Sec. 7.** RCW 43.42.060 and 2003 c 54 s 5 are each amended to read
28 as follows:

29 (1) The office may coordinate the processing by participating
30 permit agencies of permits required for a project, at the request of
31 the project (~~(applicant)~~) proponent through a cost reimbursement
32 agreement as provided in subsection (3) of this section or with the
33 agreement of the project (~~(applicant)~~) proponent as provided in
34 subsection (4) of this section.

35 (2) The office shall assign a project coordinator to perform any or
36 all of the following functions, as specified by the terms of a cost

1 reimbursement agreement under subsection (3) of this section or an
2 agreement under subsection (4) of this section:

3 (a) Serve as the main point of contact for the project
4 (~~applicant~~) proponent;

5 (b) Conduct a project scoping as provided in RCW 43.42.050(2);

6 (c) Verify that the project (~~applicant~~) proponent has all the
7 information needed to complete applications;

8 (d) Coordinate the permit processes of the permit agencies;

9 (e) Manage the applicable administrative procedures;

10 (f) Work to assure that timely permit decisions are made by the
11 permit agencies and maintain contact with the project (~~applicant~~)
12 proponent and the permit agencies to ensure adherence to schedules;

13 (g) Assist in resolving any conflict or inconsistency among permit
14 requirements and conditions; and

15 (h) Coordinate with relevant federal permit agencies and tribal
16 governments to the extent possible.

17 (3) At the request of a project (~~applicant~~) proponent and as
18 provided in RCW 43.42.070, the project coordinator shall coordinate
19 negotiations among the project (~~applicant~~) proponent, the office, and
20 participating permit agencies to enter into a cost reimbursement
21 agreement and shall coordinate implementation of the agreement, which
22 shall govern coordination of permit processing by the participating
23 permit agencies.

24 (4) For industrial projects of statewide significance or if the
25 office determines that it is in the public interest to coordinate the
26 processing of permits for certain projects that are complex in scope,
27 require multiple permits, involve multiple jurisdictions, or involve a
28 significant number of affected parties, the office shall, upon the
29 (~~applicant's~~) proponent's request, enter into an agreement with the
30 project (~~applicant~~) proponent and the participating permit agencies
31 to coordinate the processing of permits for the project. The office
32 may limit the number of such agreements according to the resources
33 available to the office and the permit agencies at the time.

34 **Sec. 8.** RCW 43.42.070 and 2003 c 70 s 7 are each amended to read
35 as follows:

36 (1) The office may coordinate negotiation and implementation of a
37 written agreement among the project (~~applicant~~) proponent, the

1 office, and participating permit agencies to recover from the project
2 ((~~applicant~~)) proponent the reasonable costs incurred by the office in
3 carrying out the provisions of RCW 43.42.050(2) and 43.42.060(2) and by
4 participating permit agencies in carrying out permit processing tasks
5 specified in the agreement.

6 (2) The office may coordinate negotiation and implementation of a
7 written agreement among the project ((~~applicant~~)) proponent, the
8 office, and participating permit agencies to recover from the project
9 ((~~applicant~~)) proponent the reasonable costs incurred by outside
10 independent consultants selected by the office and participating permit
11 agencies to perform permit processing tasks.

12 (3) Outside independent consultants may only bill for the costs of
13 performing those permit processing tasks that are specified in a cost-
14 reimbursement agreement under this section. The billing process shall
15 provide for accurate time and cost accounting and may include a billing
16 cycle that provides for progress payments.

17 (4) The office shall adopt a policy to coordinate cost-
18 reimbursement agreements with outside independent consultants. Cost-
19 reimbursement agreements coordinated by the office under this section
20 must be based on competitive bids that are awarded for each agreement
21 from a prequalified consultant roster.

22 (5) Independent consultants hired under a cost-reimbursement
23 agreement shall report directly to the permit agency. The office shall
24 assure that final decisions are made by the permit agency and not by
25 the consultant.

26 (6) The office shall develop procedures for determining,
27 collecting, and distributing cost reimbursement for carrying out the
28 provisions of this chapter.

29 (7) For a cost-reimbursement agreement, the office and
30 participating permit agencies shall negotiate a work plan and schedule
31 for reimbursement. Prior to distributing scheduled reimbursement to
32 the agencies, the office shall verify that the agencies have met the
33 obligations contained in their work plan.

34 (8) Prior to commencing negotiations with the project ((~~applicant~~))
35 proponent for a cost-reimbursement agreement, the office shall request
36 work load analyses from each participating permitting agency. These
37 analyses shall be available to the public. The work load of a

1 participating permit agency may only be modified with the concurrence
2 of the agency and if there is both good cause to do so and no
3 significant impact on environmental review.

4 (9) The office shall develop guidance to ensure that, in developing
5 cost-reimbursement agreements, conflicts of interest are eliminated.

6 (10) For project permit processes that it coordinates, the office
7 shall coordinate the negotiation of all cost-reimbursement agreements
8 executed under RCW 43.21A.690, (~~(43.30.420)~~) 43.30.490, 43.70.630,
9 43.300.080, and 70.94.085. The office and the permit agencies shall be
10 signatories to the agreements. Each permit agency shall manage
11 performance of its portion of the agreement.

12 (11) If a permit agency or the project (~~(applicant)~~) proponent
13 foresees, at any time, that it will be unable to meet its obligations
14 under the cost-reimbursement agreement, it shall notify the office and
15 state the reasons. The office shall notify the participating permit
16 agencies and the project (~~(applicant)~~) proponent and, upon agreement of
17 all parties, adjust the schedule, or, if necessary, coordinate revision
18 of the work plan.

19 **Sec. 9.** RCW 43.42.080 and 2004 c 32 s 1 are each amended to read
20 as follows:

21 (~~(1) The legislature finds that there are numerous efforts ongoing~~
22 ~~to streamline and improve permitting processes. These include the work~~
23 ~~of the transportation permit efficiency and accountability committee,~~
24 ~~chapter 47.06C RCW, and the efforts of the office of regulatory~~
25 ~~assistance to develop an integrated permit system, chapter 245, Laws of~~
26 ~~2003. While these efforts are ongoing and likely to yield procedural~~
27 ~~improvements in permit processing by 2006, there is an immediate need~~
28 ~~to coordinate permitting timelines for large, multiagency permit~~
29 ~~streamlining efforts.~~

30 (2)) With the agreement of all participating permitting agencies
31 and the permit (~~(applicant)~~) proponent, state permitting agencies may
32 establish timelines to make permit decisions, including the time
33 periods required to determine that the permit applications are
34 complete, to review the applications, and to process the permits.
35 Established timelines shall not be shorter than those otherwise
36 required for each permit under other applicable provisions of law, but
37 may extend and coordinate such timelines. The goal of the established

1 timelines is to achieve the maximum efficiencies possible through
2 concurrent studies and consolidation of applications, permit review,
3 hearings, and comment periods. A timeline established under this
4 subsection with the agreement of each permitting agency shall commit
5 each permitting agency to act within the established timeline.

6 **Sec. 10.** RCW 43.21A.690 and 2003 c 70 s 1 are each amended to read
7 as follows:

8 (1) The department may enter into a written cost-reimbursement
9 agreement with a permit (~~(applicant)~~) proponent to recover from the
10 (~~(applicant)~~) proponent the reasonable costs incurred by the department
11 in carrying out the requirements of this chapter, as well as the
12 requirements of other relevant laws, as they relate to permit
13 coordination, environmental review, application review, technical
14 studies, and permit processing. The cost-reimbursement agreement shall
15 identify the specific tasks, costs, and schedule for work to be
16 conducted under the agreement.

17 (2) The written cost-reimbursement agreement shall be negotiated
18 with the permit (~~(applicant)~~) proponent. Under the provisions of a
19 cost-reimbursement agreement, funds from the applicant shall be used by
20 the department to contract with an independent consultant to carry out
21 the work covered by the cost-reimbursement agreement. The department
22 may also use funds provided under a cost-reimbursement agreement to
23 assign current staff to review the work of the consultant, to provide
24 necessary technical assistance when an independent consultant with
25 comparable technical skills is unavailable, and to recover reasonable
26 and necessary direct and indirect costs that arise from processing the
27 permit. The department shall, in developing the agreement, ensure that
28 final decisions that involve policy matters are made by the agency and
29 not by the consultant. The department shall make an estimate of the
30 number of permanent staff hours to process the permits, and shall
31 contract with consultants to replace the time and functions committed
32 by these permanent staff to the project. The billing process shall
33 provide for accurate time and cost accounting and may include a billing
34 cycle that provides for progress payments. Use of cost-reimbursement
35 agreements shall not reduce the current level of staff available to
36 work on permits not covered by cost-reimbursement agreements. The
37 department may not use any funds under a cost-reimbursement agreement

1 to replace or supplant existing funding. The restrictions of chapter
2 42.52 RCW apply to any cost-reimbursement agreement, and to any person
3 hired as a result of a cost-reimbursement agreement.

4 ~~((3) The department may not enter into any new cost reimbursement
5 agreements on or after July 1, 2007. The department may continue to
6 administer any cost reimbursement agreement that was entered into
7 before July 1, 2007, until the project is completed.))~~

8 **Sec. 11.** RCW 43.30.490 and 2003 c 70 s 2 are each amended to read
9 as follows:

10 (1) The department may enter into a written cost-reimbursement
11 agreement with a permit or lease ~~((applicant))~~ proponent to recover
12 from the ~~((applicant))~~ proponent the reasonable costs incurred by the
13 department in carrying out the requirements of this chapter, as well as
14 the requirements of other relevant laws, as they relate to permit
15 coordination, environmental review, application review, technical
16 studies, and permit or lease processing. The cost-reimbursement
17 agreement shall identify the specific tasks, costs, and schedule for
18 work to be conducted under the agreement. ~~((An applicant for a lease
19 issued under chapter 79.90 RCW may not enter into a cost reimbursement
20 agreement under this section for projects conducted under the lease.))~~

21 (2) The written cost-reimbursement agreement shall be negotiated
22 with the permit or lease ~~((applicant))~~ proponent. Under the provisions
23 of a cost-reimbursement agreement, funds from the ~~((applicant))~~
24 proponent shall be used by the department to contract with an
25 independent consultant to carry out the work covered by the cost-
26 reimbursement agreement. The department may also use funds provided
27 under a cost-reimbursement agreement to assign current staff to review
28 the work of the consultant, to provide necessary technical assistance
29 when an independent consultant with comparable technical skills is
30 unavailable, and to recover reasonable and necessary direct and
31 indirect costs that arise from processing the permit or lease. The
32 department shall, in developing the agreement, ensure that final
33 decisions that involve policy matters are made by the agency and not by
34 the consultant. The department shall make an estimate of the number of
35 permanent staff hours to process the permits or leases, and shall
36 contract with consultants to replace the time and functions committed
37 by these permanent staff to the project. The billing process shall

1 provide for accurate time and cost accounting and may include a billing
2 cycle that provides for progress payments. Use of cost-reimbursement
3 agreements shall not reduce the current level of staff available to
4 work on permits or leases not covered by cost-reimbursement agreements.
5 The department may not use any funds under a cost-reimbursement
6 agreement to replace or supplant existing funding. The restrictions of
7 chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any
8 person hired as a result of a cost-reimbursement agreement.

9 ~~((3) The department may not enter into any new cost reimbursement
10 agreements on or after July 1, 2007. The department may continue to
11 administer any cost reimbursement agreement that was entered into
12 before July 1, 2007, until the project is completed.))~~

13 **Sec. 12.** RCW 43.70.630 and 2003 c 70 s 3 are each amended to read
14 as follows:

15 (1) The department may enter into a written cost-reimbursement
16 agreement with a permit ~~((applicant))~~ proponent to recover from the
17 ~~((applicant))~~ proponent the reasonable costs incurred by the department
18 in carrying out the requirements of this chapter, as well as the
19 requirements of other relevant laws, as they relate to permit
20 coordination, environmental review, application review, technical
21 studies, and permit processing. The cost-reimbursement agreement shall
22 identify the specific tasks, costs, and schedule for work to be
23 conducted under the agreement.

24 (2) The written cost-reimbursement agreement shall be negotiated
25 with the permit ~~((applicant))~~ proponent. Under the provisions of a
26 cost-reimbursement agreement, funds from the ~~((applicant))~~ proponent
27 shall be used by the department to contract with an independent
28 consultant to carry out the work covered by the cost-reimbursement
29 agreement. The department may also use funds provided under a cost-
30 reimbursement agreement to assign current staff to review the work of
31 the consultant, to provide necessary technical assistance when an
32 independent consultant with comparable technical skills is unavailable,
33 and to recover reasonable and necessary direct and indirect costs that
34 arise from processing the permit. The department shall, in developing
35 the agreement, ensure that final decisions that involve policy matters
36 are made by the agency and not by the consultant. The department shall
37 make an estimate of the number of permanent staff hours to process the

1 permits, and shall contract with consultants to replace the time and
2 functions committed by these permanent staff to the project. The
3 billing process shall provide for accurate time and cost accounting and
4 may include a billing cycle that provides for progress payments. Use
5 of cost-reimbursement agreements shall not reduce the current level of
6 staff available to work on permits not covered by cost-reimbursement
7 agreements. The department may not use any funds under a cost-
8 reimbursement agreement to replace or supplant existing funding. The
9 restrictions of chapter 42.52 RCW apply to any cost-reimbursement
10 agreement, and to any person hired as a result of a cost-reimbursement
11 agreement.

12 ~~((3) The department may not enter into any new cost reimbursement~~
13 ~~agreements on or after July 1, 2007. The department may continue to~~
14 ~~administer any cost reimbursement agreement that was entered into~~
15 ~~before July 1, 2007, until the project is completed.))~~

16 **Sec. 13.** RCW 43.300.080 and 2003 c 70 s 4 are each amended to read
17 as follows:

18 (1) The department may enter into a written cost-reimbursement
19 agreement with a permit ~~((applicant))~~ proponent to recover from the
20 ~~((applicant))~~ proponent the reasonable costs incurred by the department
21 in carrying out the requirements of this chapter, as well as the
22 requirements of other relevant laws, as they relate to permit
23 coordination, environmental review, application review, technical
24 studies, and permit processing. The cost-reimbursement agreement shall
25 identify the specific tasks, costs, and schedule for work to be
26 conducted under the agreement.

27 (2) The written cost-reimbursement agreement shall be negotiated
28 with the permit ~~((applicant))~~ proponent. Under the provisions of a
29 cost-reimbursement agreement, funds from the applicant shall be used by
30 the department to contract with an independent consultant to carry out
31 the work covered by the cost-reimbursement agreement. The department
32 may also use funds provided under a cost-reimbursement agreement to
33 assign current staff to review the work of the consultant, to provide
34 necessary technical assistance when an independent consultant with
35 comparable technical skills is unavailable, and to recover reasonable
36 and necessary direct and indirect costs that arise from processing the
37 permit. The department shall, in developing the agreement, ensure that

1 final decisions that involve policy matters are made by the agency and
2 not by the consultant. The department shall make an estimate of the
3 number of permanent staff hours to process the permits, and shall
4 contract with consultants to replace the time and functions committed
5 by these permanent staff to the project. The billing process shall
6 provide for accurate time and cost accounting and may include a billing
7 cycle that provides for progress payments. Use of cost-reimbursement
8 agreements shall not reduce the current level of staff available to
9 work on permits not covered by cost-reimbursement agreements. The
10 department may not use any funds under a cost-reimbursement agreement
11 to replace or supplant existing funding. The restrictions of chapter
12 42.52 RCW apply to any cost-reimbursement agreement, and to any person
13 hired as a result of a cost-reimbursement agreement.

14 ~~((3) The department may not enter into any new cost reimbursement~~
15 ~~agreements on or after July 1, 2007. The department may continue to~~
16 ~~administer any cost reimbursement agreement that was entered into~~
17 ~~before July 1, 2007, until the project is completed.))~~

18 **Sec. 14.** RCW 70.94.085 and 2003 c 70 s 5 are each amended to read
19 as follows:

20 (1) An authority may enter into a written cost-reimbursement
21 agreement with a permit ~~((applicant))~~ proponent to recover from the
22 ~~((applicant))~~ proponent the reasonable costs incurred by the authority
23 in carrying out the requirements of this chapter, as well as the
24 requirements of other relevant laws, as they relate to permit
25 coordination, environmental review, application review, technical
26 studies, and permit processing. The cost-reimbursement agreement shall
27 identify the specific tasks, costs, and schedule for work to be
28 conducted under the agreement.

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

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

22 ~~((3) An air pollution control authority may not enter into any new
23 cost reimbursement agreements on or after July 1, 2007. The authority
24 may continue to administer any cost reimbursement agreement that was
25 entered into before July 1, 2007, until the project is completed.))~~

26 **Sec. 15.** RCW 43.131.401 and 2003 c 71 s 5 are each amended to read
27 as follows:

28 The office of regulatory assistance established in RCW 43.42.010
29 and its powers and duties shall be terminated June 30, ~~((2007))~~ 2011,
30 as provided in RCW 43.131.402.

31 **Sec. 16.** RCW 43.131.402 and 2003 c 71 s 6 are each amended to read
32 as follows:

33 The following acts or parts of acts, as now existing or hereafter
34 amended, are each repealed, effective June 30, ~~((2008))~~ 2012:

35 (1) RCW 43.42.005 and 2003 c 71 § 1 & 2002 c 153 § 1;

36 (2) RCW 43.42.010 and 2003 c 71 § 2 & 2002 c 153 § 2;

- 1 (3) RCW 43.42.020 and 2002 c 153 § 3;
2 (4) RCW 43.42.030 and 2003 c 71 § 3 & 2002 c 153 § 4;
3 (5) RCW 43.42.040 and 2003 c 71 § 4 & 2002 c 153 § 5;
4 (6) RCW 43.42.050 and 2002 c 153 § 6;
5 (7) RCW 43.42.060 and 2002 c 153 § 7;
6 (8) RCW 43.42.070 and 2002 c 153 § 8;
7 (9) RCW 43.42.905 and 2002 c 153 § 10;
8 (10) RCW 43.42.900 and 2002 c 153 § 11; and
9 (11) RCW 43.42.901 and 2002 c 153 § 12.

10 NEW SECTION. **Sec. 17.** RCW 43.42.905 is decodified.

11 NEW SECTION. **Sec. 18.** By July 1, 2008, the joint legislative
12 audit and review committee shall report to the governor and appropriate
13 committees of the legislature on the compliance of the office of
14 regulatory assistance with the sunset review proposed final report,
15 January 4, 2007, findings and recommendations.

16 NEW SECTION. **Sec. 19.** Section 15 of this act is necessary for the
17 immediate preservation of the public peace, health, or safety, or
18 support of the state government and its existing public institutions,
19 and takes effect immediately.

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