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HOUSE BILL 1730

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Linville, Kretz, Ericks, Hunt, Armstrong, and Short

Read first time 01/28/09. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to the office of regulatory assistance; amending  
2 RCW 43.42.005, 43.42.020, 43.42.030, 43.42.050, 43.42.060, 43.42.070,  
3 43.21A.690, 43.70.630, 43.300.080, and 70.94.085; reenacting and  
4 amending RCW 43.42.010 and 43.30.490; and adding a new section to  
5 chapter 43.42 RCW.

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

7 **Sec. 1.** RCW 43.42.005 and 2007 c 94 s 1 are each amended to read  
8 as follows:

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

1       ~~(2) The legislature also finds that, as the number of environmental~~  
2 ~~and land use laws and requirements have grown in Washington, so have~~  
3 ~~the number of permits required of business and government. The~~  
4 ~~increasing number of permits and permitting agencies has generated the~~  
5 ~~potential for conflict, overlap, and duplication among state, local,~~  
6 ~~and federal permitting and regulatory requirements.~~

7       ~~(3) The legislature further finds that not all project proponents~~  
8 ~~require the same type of assistance. Proponents with small projects~~  
9 ~~may merely need information and assistance in starting the permitting~~  
10 ~~and application process, while intermediate-sized projects may require~~  
11 ~~more of a facilitated and periodically assisted permitting process, and~~  
12 ~~large complex projects may need extensive and more continuous~~  
13 ~~coordination among local, state, and federal agencies and tribal~~  
14 ~~governments.~~

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

19       ~~(5) The legislature, therefore, finds that a range of assistance~~  
20 ~~and coordination options should be available to project proponents from~~  
21 ~~a state office independent of any local, state, or federal permit~~  
22 ~~agency. The legislature finds that citizens, businesses, and project~~  
23 ~~proponents should be provided with:~~

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

27       ~~(b) Facilitated interagency forums for discussion of significant~~  
28 ~~issues related to the multiple permitting processes if needed for some~~  
29 ~~project proponents; and~~

30       ~~(c) Active coordination of all applicable regulatory and land use~~  
31 ~~permitting procedures if needed for some project proponents.~~

32       ~~(6) The legislature declares that the purpose of this chapter is~~  
33 ~~to:~~

34       ~~(a) Assure that citizens, businesses, and project proponents will~~  
35 ~~continue to be provided with vital information regarding environmental~~  
36 ~~and land use laws and with assistance in complying with environmental~~  
37 ~~and land use laws to promote understanding of these laws and to protect~~  
38 ~~public health and safety and the environment;~~

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

3 ~~(c) Allow for coordination of permit processing for large projects~~  
4 ~~upon project proponents' request and at project proponents' expense to~~  
5 ~~promote efficiency, ensure certainty, and avoid conflicts among permit~~  
6 ~~agencies; and~~

7 ~~(d) Provide these services through an office independent of any~~  
8 ~~permit agency to ensure that any potential or perceived conflicts of~~  
9 ~~interest related to providing these services or making permit decisions~~  
10 ~~can be avoided.~~

11 ~~(7) The legislature also declares that the purpose of this chapter~~  
12 ~~is to provide citizens of the state with access to information~~  
13 ~~regarding state regulations, permit requirements, and agency rule-~~  
14 ~~making processes in Washington state.~~

15 (8)) The legislature finds that the health and safety of its  
16 citizens and environment are of vital interest to the state's long-term  
17 quality of life. The legislature also finds that Washington state is  
18 a national leader in protecting its environment. Further, the  
19 legislature finds that Washington has a vibrant and diverse economy  
20 that is dependent on the state maintaining high environmental  
21 standards. Further, the legislature finds that a complex and confusing  
22 network of environmental and land use laws and business regulations can  
23 create obstacles to sustainable growth.

24 (2) Therefore, the legislature finds that to best promote  
25 accountability, timeliness, and predictability for citizens, business,  
26 and state, federal, and local permitting agencies, it is necessary to  
27 provide information and assistance on the regulatory process through  
28 the creation of the office of regulatory assistance in the governor's  
29 office.

30 (3) The office of regulatory assistance is created to work to  
31 continually improve the function of environmental and business  
32 regulatory processes by identifying conflicts and overlap in the  
33 state's rules, statutes, and operational practices. The office of  
34 regulatory assistance is also created to provide project proponents and  
35 business owners with active assistance for all permitting, licensing,  
36 and other regulatory procedures required for completion of specific  
37 projects. Further, the office of regulatory assistance is created to  
38 ensure that citizens, businesses, and local governments have access to,

1 and clear information regarding, regulatory processes for permitting  
2 and business regulation, including state rules, permit and license  
3 requirements, and agency rule-making processes.

4 (4) The legislature declares that the purpose of this chapter is to  
5 provide direction and practical resources for improving the regulatory  
6 process and for assistance through regulatory processes on individual  
7 projects in furtherance of the state's goals of governmental  
8 transparency and accountability.

9 (5) The legislature intends that establishing an office of  
10 regulatory assistance will provide these services without abrogating or  
11 limiting the authority of any agency to make decisions on permits,  
12 licenses, and regulatory requirements ((that it requires)) or ((any  
13 rule-making)) agency ((to make decisions on regulations)) rule making.

14 The legislature therefore declares that the office of regulatory  
15 assistance shall have authority to provide ((these)) services but shall  
16 not have any authority to make decisions on permits.

17 **Sec. 2.** RCW 43.42.020 and 2007 c 94 s 3 are each amended to read  
18 as follows:

19 (1) The office shall operate on ((the principle that citizens of  
20 the state of Washington should receive)) principles of accountability  
21 and transparency with a goal of providing the following information  
22 regarding permits to citizens and business:

23 (a) ((A date and time for a decision on a permit or regulatory  
24 requirement)) The current average turnaround times from the date of  
25 application to date of decision for the required permit, licenses, or  
26 other necessary regulatory decisions, or the most relevant information  
27 the agency can provide, for projects of a comparable size and  
28 complexity;

29 (b) The information required for an agency to make a decision on a  
30 permit or regulatory requirement, including the agency's best estimate  
31 of the number of times projects of a similar size and complexity have  
32 been asked to clarify, improve, or provide supplemental information  
33 before a decision, and the expected agency response time, recognizing  
34 that changes in the project or other circumstances may change the  
35 information required; and

36 (c) An estimate of the maximum amount of costs in fees((~~τ~~)) to be

1 paid to state agencies, the type of any studies an agency expects to  
2 need, ((or)) and the timing of any expected public processes ((that  
3 will be incurred by)) for the project ((proponent)).

4 (2) This section does not create an independent cause of action,  
5 affect any existing cause of action, or establish time limits for  
6 purposes of RCW 64.40.020.

7 **Sec. 3.** RCW 43.42.030 and 2007 c 94 s 4 are each amended to read  
8 as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11 (1) "Director" means the director of the office of regulatory  
12 assistance.

13 (2) "Fully coordinated permit process" means a comprehensive  
14 coordinated permitting assistance approach supported by a written  
15 agreement between the project proponent, the office of regulatory  
16 assistance, and the agencies participating in the fully coordinated  
17 permit process.

18 (3) "Office" means the office of regulatory assistance ((in the  
19 office of financial management)) established in RCW 43.42.010.

20 ((+2)) (4) "Permit" means any permit, license, certificate, use  
21 authorization, or other form of governmental review or approval  
22 required in order to construct, expand, or operate a project in the  
23 state of Washington.

24 ((+3)) (5) "Permit agency" means any state, local, or federal  
25 agency authorized by law to issue permits.

26 ((+4)) (6) "Project" means any activity, the conduct of which  
27 requires a permit or permits from one or more permit agencies.

28 ((+5)) (7) "Project proponent" means a citizen, business, or any  
29 entity applying for or seeking a permit or permits in the state of  
30 Washington.

31 **Sec. 4.** RCW 43.42.010 and 2007 c 231 s 5 and 2007 c 94 s 2 are  
32 each reenacted and amended to read as follows:

33 (1) The office of regulatory assistance is created in the office of  
34 financial management and shall be administered by the office of the  
35 governor to help improve the regulatory system and assist citizens,  
36 businesses, and project proponents.

1       (2) The governor shall appoint a director. The director may employ  
2 a deputy director and a confidential secretary and such staff as are  
3 necessary, or contract with another state agency pursuant to chapter  
4 39.34 RCW for support in carrying out the purposes of this chapter.

5       (3) The office shall provide any or all of the following services:

6       ~~(a) ((Maintain and furnish information as provided in RCW~~  
7 ~~43.42.040;~~

8       ~~(b) Furnish facilitation as provided in RCW 43.42.050;~~

9       ~~(c) Furnish coordination as provided in RCW 43.42.060;~~

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

11       ~~(e) Work with governmental agencies to continue to develop a range~~  
12 ~~of permitting and regulatory assistance options for project proponents;~~

13       ~~(f) Help local jurisdictions comply with the requirements of RCW~~  
14 ~~36.70B.080 by:~~

15       ~~(i) Providing information about best practices and compliance with~~  
16 ~~the requirements of RCW 36.70B.080; and~~

17       ~~(ii) Providing technical assistance in reducing the turnaround time~~  
18 ~~between submittal of an application for a development permit and the~~  
19 ~~issuance of the permit;~~

20       ~~(g) Work to develop informal processes for dispute resolution~~  
21 ~~between agencies and permit proponents;~~

22       ~~(h) Conduct customer surveys to evaluate its effectiveness; and~~

23       ~~(i))~~ Act as the main or central point of contact for the project  
24 proponent in communicating about defined issues;

25       (b) Conduct project scoping as provided in RCW 43.42.050;

26       (c) Verify that the project proponent has all the information  
27 needed to correctly apply for all necessary permits;

28       (d) Provide general coordination services as a stand-alone event or  
29 as an element of broader project assistance, nonproject-related  
30 interagency coordination, or policy and planning teamwork;

31       (e) Coordinate the efficient completion among participating  
32 agencies of administrative procedures, such as collecting fees or  
33 providing public notice;

34       (f) Maintain contact with the project proponent and the permit  
35 agencies to promote adherence to agreed schedules;

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

1 (h) Coordinate, to the extent practicable, with relevant federal  
2 permit agencies and tribal governments;

3 (i) Conduct stand-alone or ongoing meeting facilitation;

4 (j) Manage a fully coordinated permit process, as provided in RCW  
5 43.42.060;

6 (k) Help local jurisdictions comply with the requirements of  
7 chapter 36.70B RCW by providing information about best permitting  
8 practices as well as ways to improve communication and solicit early  
9 involvement of state agencies when needed; and

10 (l) Maintain and furnish information as provided in RCW 43.42.040.

11 (4) The office shall provide the following reports by ((June))  
12 September 1, ((2008)) 2009, and biennially thereafter, to the governor  
13 and the appropriate committees of the legislature for public hearing:

14 ((+i)) (a) A performance report((, based on the customer surveys  
15 required in (h) of this subsection)) including:

16 (i) Information regarding use of the office's voluntary cost-  
17 reimbursement services as provided in RCW 43.42.070;

18 (ii) The number and type of projects where the office provided  
19 services; and

20 (iii) The agencies involved on specific projects; and

21 ((+ii)) (b) A report ((on)) with recommendations on system  
22 improvements including recommendations regarding measurement of overall  
23 system performance, any conflicts ((identified by the office in the  
24 course of its duties)), overlaps, and inconsistencies arising from  
25 differing statutory or regulatory authorities, roles and missions of  
26 agencies, timing and sequencing of permitting and procedural  
27 requirements, or otherwise, as identified by the office in the course  
28 of its duties and how these were or could be resolved((; and

29 (iii) A report regarding negotiation and implementation of  
30 voluntary cost reimbursement agreements and use of outside independent  
31 consultants under RCW 43.42.070, including the nature and amount of  
32 work performed and implementation of requirements relating to costs.

33 (3) The office shall ensure the equitable delivery and provision of  
34 assistance services, regardless of project type, scale, fund source, or  
35 assistance request)).

36 **Sec. 5.** RCW 43.42.050 and 2007 c 94 s 6 are each amended to read  
37 as follows:

1       ~~((At the request of a project proponent, the office shall assist~~  
2 ~~the project proponent in determining what regulatory requirements,~~  
3 ~~processes, and permits apply to the project, as provided in this~~  
4 ~~section.~~

5       ~~(1) The office shall assign a project facilitator who shall discuss~~  
6 ~~applicable regulatory requirements, permits, and processes with the~~  
7 ~~project proponent and explain the available options for obtaining~~  
8 ~~required permits and regulatory review.))~~

9       (1) Upon request of a project proponent, the office shall determine  
10 the level of project scoping needed by the project proponent, taking  
11 into consideration the complexity of the project and the experience of  
12 those expected to be involved in the project application and review  
13 process.

14       ~~(2) ((If the project proponent and the project facilitator agree~~  
15 ~~that the project would benefit from a project scoping, the project~~  
16 ~~facilitator shall conduct a project scoping with the project proponent~~  
17 ~~and the relevant permitting and regulatory agencies. The project~~  
18 ~~facilitator shall invite the participation of the relevant federal~~  
19 ~~agencies and tribal governments.~~

20       ~~(a))~~ The purpose of the project scoping is to identify ~~((the))~~  
21 relevant issues and information needs of the project proponent and  
22 ~~((the participating permit agencies regarding the project, share~~  
23 ~~perspectives, and jointly develop a strategy for the processing of~~  
24 ~~required permits by each participating permit agency))~~ permitting  
25 agencies and to reach a common understanding regarding the process,  
26 timing, and sequencing for obtaining applicable permits.

27       ~~((b) The scoping))~~ (3) Project scoping shall consider the  
28 complexity, size, and needs for assistance of the project and shall  
29 address as appropriate:

30       ~~((i))~~ (a) The permits that are required for the project;

31       ~~((ii))~~ (b) The permit application forms and other application  
32 requirements of the participating permit agencies;

33       ~~((iii))~~ (c) The specific information needs and issues of concern  
34 of each participant and their significance;

35       ~~((iv))~~ (d) Any statutory or regulatory conflicts that might arise  
36 from the differing authorities and roles of the permit agencies;

37       ~~((v))~~ (e) Any natural resources, including federal or state



1 listed species, that might be adversely affected by the project and  
2 might cause an alteration of the project or require mitigation; and

3 ~~((+vi))~~ (f) The anticipated time required for permit decisions by  
4 each participating permit agency, including the time expected to be  
5 required to determine if the permit application is complete, to conduct  
6 environmental review, and to review and process the application. In  
7 determining the estimated time required, full consideration must be  
8 given to achieving the greatest possible efficiencies through any  
9 concurrent studies and any consolidated applications, hearings, and  
10 comment periods.

11 ~~((+e))~~ (4) The outcome of the project scoping shall be documented  
12 in writing, furnished to the project proponent, and be made available  
13 to the public.

14 ~~((+d))~~ (5) The project scoping shall typically be completed within  
15 sixty days of the project proponent's request for a project scoping.

16 ~~((+e))~~ (6) Upon completion of the project scoping, the  
17 participating permit agencies shall proceed under their respective  
18 ~~((authority. The agencies are encouraged to remain))~~ authorities  
19 remaining in communication ~~((for purposes of coordination until their~~  
20 ~~final permit decisions are made))~~ as needed and often with no further  
21 assistance from the office.

22 ~~((+3))~~ (7) This section does not create an independent cause of  
23 action, affect any existing cause of action, or establish time limits  
24 for purposes of RCW 64.40.020.

25 **Sec. 6.** RCW 43.42.060 and 2007 c 94 s 7 are each amended to read  
26 as follows:

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

32 ~~(2) The office shall assign a project coordinator to perform any or~~  
33 ~~all of the following functions, as specified by the terms of a cost-~~  
34 ~~reimbursement agreement under subsection (3) of this section or an~~  
35 ~~agreement under subsection (4) of this section:~~

36 ~~(a) Serve as the main point of contact for the project proponent;~~

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

1 ~~(c) Verify that the project proponent has all the information~~  
2 ~~needed to complete applications;~~

3 ~~(d) Coordinate the permit processes of the permit agencies;~~

4 ~~(e) Manage the applicable administrative procedures;~~

5 ~~(f) Work to assure that timely permit decisions are made by the~~  
6 ~~permit agencies and maintain contact with the project proponent and the~~  
7 ~~permit agencies to ensure adherence to schedules;~~

8 ~~(g) Assist in resolving any conflict or inconsistency among permit~~  
9 ~~requirements and conditions; and~~

10 ~~(h) Coordinate with relevant federal permit agencies and tribal~~  
11 ~~governments to the extent possible.~~

12 ~~(3) At the request of a project proponent and as provided in RCW~~  
13 ~~43.42.070, the project coordinator shall coordinate negotiations among~~  
14 ~~the project proponent, the office, and participating permit agencies to~~  
15 ~~enter into a cost reimbursement agreement and shall coordinate~~  
16 ~~implementation of the agreement, which shall govern coordination of~~  
17 ~~permit processing by the participating permit agencies.~~

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

27 ~~permit agencies at the time.)) (1) A project proponent may submit a~~  
28 ~~written request to the director of the office for participation in a~~  
29 ~~fully coordinated permit process. Designation as a fully coordinated~~  
30 ~~project requires that:~~

31 ~~(a) The project proponent enters into a cost-reimbursement~~  
32 ~~agreement pursuant to RCW 43.42.070;~~

33 ~~(b) The project be an industrial project of statewide significance,~~  
34 ~~as defined in RCW 43.157.010; or~~

35 ~~(c) The director determines (i) the project raises complex~~  
36 ~~coordination, permit processing, or substantive permit review issues;~~

37 ~~(ii) if completed, the project would provide substantial benefits to~~  
38 ~~the state; and (iii) the office, as well as the participating permit~~

1 review agencies, have sufficient capacity within existing resources to  
2 undertake the full coordination process without reimbursement and  
3 without seriously affecting other services.

4 (2) A project proponent who requests designation as a fully  
5 coordinated permit process project must provide the office with a full  
6 description of the project. The office may request any information  
7 from the project proponent that is necessary to make the designation  
8 under this section, and may convene a scoping meeting or a work plan  
9 meeting of the likely participating permit agencies.

10 (3) When a project is designated for the fully coordinated permit  
11 process, the office shall serve as the main point of contact for the  
12 project proponent and participating agencies with regard to the permit  
13 process for the project as a whole. The office shall keep an  
14 up-to-date project management log and schedule illustrating required  
15 procedural steps in the permitting process, and highlighting  
16 substantive issues as appropriate that must be resolved in order for  
17 the project to move forward. In carrying out these responsibilities,  
18 the office shall:

19 (a) Ensure that the project proponent has been informed of all the  
20 information needed to apply for the permits that are included in the  
21 coordinated permit process;

22 (b) Coordinate the timing of review for those permits by the  
23 respective participating permit agencies;

24 (c) Facilitate communication between project proponents,  
25 consultants, and agency staff to promote timely permit decisions;

26 (d) Assist in resolving any conflict or inconsistency among the  
27 permit requirements and conditions that are expected to be imposed by  
28 the participating permit agencies; and

29 (e) Make contact, at least once, with any local, tribal, or federal  
30 jurisdiction that is responsible for issuing a permit for the project  
31 and invite them to participate in the coordinated permit process or to  
32 receive periodic updates in the project.

33 (4) Within thirty days, or longer with agreement of the project  
34 proponent, of the date that the office designates a project for the  
35 fully coordinated permit process, it shall convene a work plan meeting  
36 with the project proponent and the participating permit agencies to  
37 develop a coordinated permit process schedule. The meeting agenda  
38 shall include at least the following:

1 (a) Review of the permits that are required for the project;

2 (b) A review of the permit application forms and other application  
3 requirements of the agencies that are participating in the coordinated  
4 permit process;

5 (c) An estimation of the timelines that will be used by each  
6 participating permit agency to make permit decisions, including the  
7 estimated time periods required to determine if the permit applications  
8 are complete and to review or respond to each application or submittal  
9 of new information.

10 (i) The estimation must also include the estimated number of  
11 revision cycles for the project, or the typical number of revision  
12 cycles for projects of similar size and complexity.

13 (ii) In the development of this timeline, full attention shall be  
14 given to achieving the maximum efficiencies possible through concurrent  
15 studies and consolidated applications, hearings, and comment periods.

16 (iii) Estimated schedules for input or responses from a project  
17 proponent may be included in the timeline, but are not required.

18 (iv) Estimated action or response times for activities of the  
19 office that are required before or trigger further action by a  
20 participant will also be included.

21 (v) The timelines established under this subsection shall be met  
22 unless adjusted pursuant to subsection (6) of this section;

23 (vi) An accelerated time period for the consideration of a permit  
24 application may not be set if that accelerated time period would be  
25 inconsistent with, or in conflict with, any time period or series of  
26 time periods set by statute for that consideration, or with any  
27 statute, rule, or regulation, or adopted state policy, standard, or  
28 guideline that requires any of the following:

29 (A) Other agencies, interested persons, federally recognized Indian  
30 tribes, or the public to be given adequate notice of the application;

31 (B) Other agencies to be given a role in, or be allowed to  
32 participate in, the decision to approve or disapprove the application;  
33 or

34 (C) Interested persons or the public to be provided the opportunity  
35 to challenge, comment on, or otherwise voice their concerns regarding  
36 the application;

37 (d) Available information regarding the timing of any public

1 hearings that are required to issue permits for the project and a  
2 determination of the feasibility of coordinating or consolidating any  
3 of those required public hearings; and

4 (e) A discussion of fee arrangements for the coordinated permit  
5 process, including an estimate of the costs allowed by statute, any  
6 reimbursable agency costs, and billing schedules, if applicable.

7 (5) Each agency shall send at least one representative qualified to  
8 discuss the applicability and timelines associated with all permits  
9 administered by that agency or jurisdiction. At the request of the  
10 project proponent, the office shall notify any relevant local or  
11 federal agency or federally recognized Indian tribe of the date of the  
12 meeting and invite that agency's participation in the process.

13 (6) If a permit agency or the project proponent foresees, at any  
14 time, that it will be unable to meet the estimated timelines or other  
15 obligations under the agreement, it shall notify the office of the  
16 reasons for the problem and offer potential solutions or an amended  
17 timeline for resolving the problem. The office shall notify the  
18 participating permit agencies and the project proponent and, upon  
19 agreement of all parties, adjust the schedule, or, if necessary,  
20 schedule another work plan meeting.

21 (7) The office may request any information from the project  
22 proponent that is necessary to comply with its obligations under this  
23 section, consistent with the timelines set under this section.

24 (8) The project proponent may withdraw from the coordinated permit  
25 process by submitting to the office a written request that the process  
26 be terminated. Upon receipt of the request, the office shall notify  
27 each participating permit agency that a coordinated permit process is  
28 no longer applicable to the project.

29 **Sec. 7.** RCW 43.42.070 and 2007 c 94 s 8 are each amended to read  
30 as follows:

31 (1) The office may (~~coordinate negotiation and implementation of~~  
32 ~~a written agreement among the~~) enter into cost-reimbursement  
33 agreements with a project proponent(~~, the office, and participating~~  
34 ~~permit agencies~~) to recover from the project proponent the reasonable  
35 costs incurred by the office in carrying out the provisions of RCW  
36 43.42.050(~~(2) and 43.42.060(2) and by participating~~). The agreement

1 shall include the permit agencies ((in)) that are participating in the  
2 cost-reimbursement project and carrying out permit processing tasks  
3 ((specified)) referenced in the agreement.

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

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

15 ~~(4)) The office shall ((adopt a policy to coordinate)) maintain~~  
16 ~~policies or guidelines for coordinating cost-reimbursement agreements~~  
17 ~~with participating agencies, project proponents, and outside~~  
18 ~~independent consultants. ((Cost reimbursement agreements coordinated))~~  
19 ~~Policies or guidelines must ensure that, in developing cost-~~  
20 ~~reimbursement agreements, conflicts of interest are eliminated.~~  
21 ~~Contracts with independent consultants hired by the office under this~~  
22 ~~section must be based on competitive bids that are awarded for each~~  
23 ~~agreement from a prequalified consultant roster.~~

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

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

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

36 ~~(8) Prior to commencing negotiations with the project proponent for~~  
37 ~~a cost reimbursement agreement, the office shall request work load~~  
38 ~~analyses from each participating permitting agency. These analyses~~

1 ~~shall be available to the public. The work load of a participating~~  
2 ~~permit agency may only be modified with the concurrence of the agency~~  
3 ~~and if there is both good cause to do so and no significant impact on~~  
4 ~~environmental review.~~

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

7 ~~(10))~~ (3) For ~~((project))~~ fully coordinated permit processes  
8 ~~((that it coordinates))~~, the office shall coordinate the negotiation of  
9 all cost-reimbursement agreements executed under RCW 43.21A.690,  
10 43.30.490, 43.70.630, 43.300.080, and 70.94.085. The office, project  
11 proponent, and the permit agencies shall be signatories to the  
12 agreement or agreements. Each permit agency shall manage performance  
13 of its portion of the agreement. Independent consultants hired under  
14 a cost-reimbursement agreement shall report directly to the hiring  
15 office or permit agency. Any cost-reimbursement agreement must require  
16 that final decisions are made by the permit agency and not by a hired  
17 consultant.

18 ~~((11))~~ (4) For a fully coordinated project using cost  
19 reimbursement, the office and participating permit agencies shall  
20 include a cost-reimbursement work plan, including deliverables and  
21 schedules for invoicing and reimbursement in the fully coordinated  
22 project work plan described in RCW 43.42.060. Upon request, the office  
23 shall verify that the agencies have met the obligations contained in  
24 the cost-reimbursement work plan and agreement. The cost-reimbursement  
25 agreement shall identify with as much specificity as possible the tasks  
26 of each agency and the maximum costs for work conducted under the  
27 agreement. The agreement must include a schedule that states:

28 (a) The estimated number of weeks for initial review of the permit  
29 application for comparable projects;

30 (b) The anticipated number of revision cycles;

31 (c) The estimated number of weeks for review of subsequent revision  
32 submittals;

33 (d) The estimated number of billable hours of employee time;

34 (e) The rate per hour; and

35 (f) A process for revision of the agreement if necessary.

36 (5) If a permit agency or the project proponent foresees, at any  
37 time, that it will be unable to meet its obligations under the cost-  
38 reimbursement agreement and fully coordinated project work plan, it

1 shall notify the office and state the reasons, along with proposals for  
2 resolving the problems and potentially amending the timelines. The  
3 office shall notify the participating permit agencies and the project  
4 proponent and, upon agreement of all parties, adjust the schedule, or,  
5 if necessary, coordinate revision of the cost-reimbursement agreement  
6 and fully coordinated project work plan.

7 **Sec. 8.** RCW 43.21A.690 and 2007 c 94 s 10 are each amended to read  
8 as follows:

9 (1) The department may enter into a written cost-reimbursement  
10 agreement with a permit applicant or project proponent to recover from  
11 the applicant or proponent the reasonable costs incurred by the  
12 department in carrying out the requirements of this chapter, as well as  
13 the requirements of other relevant laws, as they relate to permit  
14 coordination, environmental review, application review, technical  
15 studies, and permit processing.

16 (2) The cost-reimbursement agreement shall identify with as much  
17 specificity as possible the (~~specific~~) tasks(~~(7)~~) and costs(~~(7, and~~  
18 ~~schedule)~~) for work to be conducted under the agreement. The agreement  
19 must include a schedule that states:

20 (a) The estimated number of weeks for initial review of the permit  
21 application;

22 (b) The estimated number of revision cycles;

23 (c) The estimated number of weeks for review of subsequent revision  
24 submittals;

25 (d) The estimated number of billable hours of employee time;

26 (e) The rate per hour; and

27 (f) A date for revision of the agreement if necessary.

28 (~~(+2)~~) (3) The written cost-reimbursement agreement shall be  
29 negotiated with the permit applicant or project proponent. Under the  
30 provisions of a cost-reimbursement agreement, funds from the applicant  
31 shall be used by the department to contract with an independent  
32 consultant to carry out the work covered by the cost-reimbursement  
33 agreement. The department may also use funds provided under a cost-  
34 reimbursement agreement to hire temporary employees, to assign current  
35 staff to review the work of the consultant, to provide necessary  
36 technical assistance when an independent consultant with comparable  
37 technical skills is unavailable, and to recover reasonable and



1 necessary direct and indirect costs that arise from processing the  
2 permit. The department shall, in developing the agreement, ensure that  
3 final decisions that involve policy matters are made by the agency and  
4 not by the consultant. The department shall make an estimate of the  
5 number of permanent staff hours to process the permits, and shall  
6 contract with consultants or hire temporary employees to replace the  
7 time and functions committed by these permanent staff to the project.  
8 The billing process shall provide for accurate time and cost accounting  
9 and may include a billing cycle that provides for progress payments.  
10 (~~Use of cost reimbursement agreements shall not reduce the current~~  
11 ~~level of staff available to work on permits not covered by cost-~~  
12 ~~reimbursement agreements. The department may not use any funds under~~  
13 ~~a cost reimbursement agreement to replace or supplant existing~~  
14 ~~funding.))~~

15 (4) The cost-reimbursement agreement must not negatively impact the  
16 processing of other permit applications. In order to maintain permit  
17 processing capacity, the agency may hire outside consultants, temporary  
18 employees, or make internal administrative changes. Consultants or  
19 temporary employees hired as part of a cost-reimbursement agreement or  
20 to maintain agency capacity are hired as agents of the state not of the  
21 permit applicant. The restrictions of chapter 42.52 RCW apply to any  
22 cost-reimbursement agreement, and to any person hired as a result of a  
23 cost-reimbursement agreement.

24 **Sec. 9.** RCW 43.30.490 and 2007 c 188 s 1 and 2007 c 94 s 11 are  
25 each reenacted and amended to read as follows:

26 (1) The department may enter into a written cost-reimbursement  
27 agreement with a permit or lease applicant or project proponent to  
28 recover from the applicant or proponent the reasonable costs incurred  
29 by the department in carrying out the requirements of this chapter, as  
30 well as the requirements of other relevant laws, as they relate to  
31 permit coordination, environmental review, application review,  
32 technical studies, establishment of development units and approval or  
33 establishment of pooling agreements under chapter 78.52 RCW, including  
34 necessary technical studies, permit or lease processing, and monitoring  
35 for permit compliance.

36 (2) The cost-reimbursement agreement shall identify with as much

1 specificity as possible the ((specific)) tasks((7)) and costs((7—and  
2 schedule)) for work to be conducted under the agreement. The agreement

3 must include a schedule that states:  
4 (a) The estimated number of weeks for initial review of the permit  
5 application;

6 (b) The estimated number of revision cycles;

7 (c) The estimated number of weeks for review of subsequent revision  
8 submittals;

9 (d) The estimated number of billable hours of employee time;

10 (e) The rate per hour; and

11 (f) A date for revision of the agreement if necessary.

12 ~~((+2))~~ (3) The written cost-reimbursement agreement shall be  
13 negotiated with the permit or lease applicant or project proponent.  
14 Under the provisions of a cost-reimbursement agreement, funds from the  
15 applicant or proponent shall be used by the department to contract with  
16 an independent consultant to carry out the work covered by the cost-  
17 reimbursement agreement. The department may also use funds provided  
18 under a cost-reimbursement agreement to hire temporary employees, to  
19 assign current staff to review the work of the consultant, to provide  
20 necessary technical assistance when an independent consultant with  
21 comparable technical skills is unavailable, and to recover reasonable  
22 and necessary direct and indirect costs that arise from processing the  
23 permit or lease. The department shall, in developing the agreement,  
24 ensure that final decisions that involve policy matters are made by the  
25 agency and not by the consultant. The department shall make an  
26 estimate of the number of permanent staff hours to process the permits  
27 or leases, and shall contract with consultants or hire temporary  
28 employees to replace the time and functions committed by these  
29 permanent staff to the project. The billing process shall provide for  
30 accurate time and cost accounting and may include a billing cycle that  
31 provides for progress payments. ~~((Use of cost reimbursement agreements~~  
32 ~~shall not reduce the current level of staff available to work on~~  
33 ~~permits or leases not covered by cost reimbursement agreements.—The~~  
34 ~~department may not use any funds under a cost reimbursement agreement~~  
35 ~~to replace or supplant existing funding.))~~

36 (4) The cost-reimbursement agreement must not negatively impact the  
37 processing of other permit applications. In order to maintain permit  
38 processing capacity, the agency may hire outside consultants, temporary

1 employees, or make internal administrative changes. Consultants or  
2 temporary employees hired as part of a cost-reimbursement agreement or  
3 to maintain agency capacity are hired as agents of the state not of the  
4 permit applicant. The restrictions of chapter 42.52 RCW apply to any  
5 cost-reimbursement agreement, and to any person hired as a result of a  
6 cost-reimbursement agreement.

7 **Sec. 10.** RCW 43.70.630 and 2007 c 94 s 12 are each amended to read  
8 as follows:

9 (1) The department may enter into a written cost-reimbursement  
10 agreement with a permit applicant or project proponent to recover from  
11 the applicant or proponent the reasonable costs incurred by the  
12 department in carrying out the requirements of this chapter, as well as  
13 the requirements of other relevant laws, as they relate to permit  
14 coordination, environmental review, application review, technical  
15 studies, and permit processing.

16 (2) The cost-reimbursement agreement shall identify with as much  
17 specificity as possible the ((specifie)) tasks((,)) and costs((, and  
18 schedule)) for work to be conducted under the agreement. The agreement  
19 must include a schedule that states:

20 (a) The estimated number of weeks for initial review of the permit  
21 application;

22 (b) The estimated number of revision cycles;

23 (c) The estimated number of weeks for review of subsequent revision  
24 submittals;

25 (d) The estimated number of billable hours of employee time;

26 (e) The rate per hour; and

27 (f) A date for revision of the agreement if necessary.

28 ((+2)) (3) The written cost-reimbursement agreement shall be  
29 negotiated with the permit applicant or project proponent. Under the  
30 provisions of a cost-reimbursement agreement, funds from the applicant  
31 or proponent shall be used by the department to contract with an  
32 independent consultant to carry out the work covered by the cost-  
33 reimbursement agreement. The department may also use funds provided  
34 under a cost-reimbursement agreement to hire temporary employees, to  
35 assign current staff to review the work of the consultant, to provide  
36 necessary technical assistance when an independent consultant with  
37 comparable technical skills is unavailable, and to recover reasonable

1 and necessary direct and indirect costs that arise from processing the  
2 permit. The department shall, in developing the agreement, ensure that  
3 final decisions that involve policy matters are made by the agency and  
4 not by the consultant. The department shall make an estimate of the  
5 number of permanent staff hours to process the permits, and shall  
6 contract with consultants or hire temporary employees to replace the  
7 time and functions committed by these permanent staff to the project.  
8 The billing process shall provide for accurate time and cost accounting  
9 and may include a billing cycle that provides for progress payments.  
10 (~~Use of cost reimbursement agreements shall not reduce the current~~  
11 ~~level of staff available to work on permits not covered by cost-~~  
12 ~~reimbursement agreements. The department may not use any funds under~~  
13 ~~a cost reimbursement agreement to replace or supplant existing~~  
14 ~~funding.))~~

15 (4) The cost-reimbursement agreement must not negatively impact the  
16 processing of other permit applications. In order to maintain permit  
17 processing capacity, the agency may hire outside consultants, temporary  
18 employees, or make internal administrative changes. Consultants or  
19 temporary employees hired as part of a cost-reimbursement agreement or  
20 to maintain agency capacity are hired as agents of the state not of the  
21 permit applicant. The restrictions of chapter 42.52 RCW apply to any  
22 cost-reimbursement agreement, and to any person hired as a result of a  
23 cost-reimbursement agreement.

24 **Sec. 11.** RCW 43.300.080 and 2007 c 94 s 13 are each amended to  
25 read as follows:

26 (1) The department may enter into a written cost-reimbursement  
27 agreement with a permit applicant or project proponent to recover from  
28 the applicant or proponent the reasonable costs incurred by the  
29 department in carrying out the requirements of this chapter, as well as  
30 the requirements of other relevant laws, as they relate to permit  
31 coordination, environmental review, application review, technical  
32 studies, and permit processing.

33 (2) The cost-reimbursement agreement shall identify with as much  
34 specificity as possible the ((specific)) tasks((,)) and costs((, and  
35 schedule)) for work to be conducted under the agreement. The agreement  
36 must include a schedule that states:

1 (a) The estimated number of weeks for initial review of the permit  
2 application;

3 (b) The estimated number of revision cycles;

4 (c) The estimated number of weeks for review of subsequent revision  
5 submittals;

6 (d) The estimated number of billable hours of employee time;

7 (e) The rate per hour; and

8 (f) A date for revision of the agreement if necessary.

9 ~~((+2))~~ (3) The written cost-reimbursement agreement shall be  
10 negotiated with the permit applicant or project proponent. Under the  
11 provisions of a cost-reimbursement agreement, funds from the applicant  
12 shall be used by the department to contract with an independent  
13 consultant to carry out the work covered by the cost-reimbursement  
14 agreement. The department may also use funds provided under a cost-  
15 reimbursement agreement to hire temporary employees, to assign current  
16 staff to review the work of the consultant, to provide necessary  
17 technical assistance when an independent consultant with comparable  
18 technical skills is unavailable, and to recover reasonable and  
19 necessary direct and indirect costs that arise from processing the  
20 permit. The department shall, in developing the agreement, ensure that  
21 final decisions that involve policy matters are made by the agency and  
22 not by the consultant. The department shall make an estimate of the  
23 number of permanent staff hours to process the permits, and shall  
24 contract with consultants or hire temporary employees to replace the  
25 time and functions committed by these permanent staff to the project.  
26 The billing process shall provide for accurate time and cost accounting  
27 and may include a billing cycle that provides for progress payments.  
28 ~~((Use of cost reimbursement agreements shall not reduce the current~~  
29 ~~level of staff available to work on permits not covered by cost-~~  
30 ~~reimbursement agreements. The department may not use any funds under~~  
31 ~~a cost reimbursement agreement to replace or supplant existing~~  
32 ~~funding.))~~

33 (4) The cost-reimbursement agreement must not negatively impact the  
34 processing of other permit applications. In order to maintain permit  
35 processing capacity, the agency may hire outside consultants, temporary  
36 employees, or make internal administrative changes. Consultants or  
37 temporary employees hired as part of a cost-reimbursement agreement or  
38 to maintain agency capacity are hired as agents of the state not of the

1 permit applicant. The restrictions of chapter 42.52 RCW apply to any  
2 cost-reimbursement agreement, and to any person hired as a result of a  
3 cost-reimbursement agreement.

4 **Sec. 12.** RCW 70.94.085 and 2007 c 94 s 14 are each amended to read  
5 as follows:

6 (1) An authority may enter into a written cost-reimbursement  
7 agreement with a permit applicant or project proponent to recover from  
8 the applicant or proponent the reasonable costs incurred by the  
9 authority in carrying out the requirements of this chapter, as well as  
10 the requirements of other relevant laws, as they relate to permit  
11 coordination, environmental review, application review, technical  
12 studies, and permit processing.

13 (2) The cost-reimbursement agreement shall identify with as much  
14 specificity as possible the ~~((specific))~~ tasks~~((,))~~ and costs~~((, and~~  
15 ~~schedule))~~ for work to be conducted under the agreement. The agreement  
16 must include a schedule that states:

17 (a) The estimated number of weeks for initial review of the permit  
18 application;

19 (b) The estimated number of revision cycles;

20 (c) The estimated number of weeks for review of subsequent revision  
21 submittals;

22 (d) The estimated number of billable hours of employee time;

23 (e) The rate per hour; and

24 (f) A date for revision of the agreement if necessary.

25 ~~((+2))~~ (3) The written cost-reimbursement agreement shall be  
26 negotiated with the permit applicant or project proponent. Under the  
27 provisions of a cost-reimbursement agreement, funds from the applicant  
28 or proponent shall be used by the air pollution control authority to  
29 contract with an independent consultant to carry out the work covered  
30 by the cost-reimbursement agreement. The air pollution control  
31 authority may also use funds provided under a cost-reimbursement  
32 agreement to hire temporary employees, to assign current staff to  
33 review the work of the consultant, to provide necessary technical  
34 assistance when an independent consultant with comparable technical  
35 skills is unavailable, and to recover reasonable and necessary direct  
36 and indirect costs that arise from processing the permit. The air  
37 pollution control authority shall, in developing the agreement, ensure

1 that final decisions that involve policy matters are made by the agency  
2 and not by the consultant. The air pollution control authority shall  
3 make an estimate of the number of permanent staff hours to process the  
4 permits, and shall contract with consultants or hire temporary  
5 employees to replace the time and functions committed by these  
6 permanent staff to the project. The billing process shall provide for  
7 accurate time and cost accounting and may include a billing cycle that  
8 provides for progress payments. (~~Use of cost reimbursement agreements~~  
9 ~~shall not reduce the current level of staff available to work on~~  
10 ~~permits not covered by cost reimbursement agreements. The air~~  
11 ~~pollution control authority may not use any funds under a cost-~~  
12 ~~reimbursement agreement to replace or supplant existing funding.))~~

13 (4) The cost-reimbursement agreement must not negatively impact the  
14 processing of other permit applications. In order to maintain permit  
15 processing capacity, the agency may hire outside consultants, temporary  
16 employees, or make internal administrative changes. Consultants or  
17 temporary employees hired as part of a cost-reimbursement agreement or  
18 to maintain agency capacity are hired as agents of the state not of the  
19 permit applicant. The provisions of chapter 42.52 RCW apply to any  
20 cost-reimbursement agreement, and to any person hired as a result of a  
21 cost-reimbursement agreement. Members of the air pollution control  
22 authority's board of directors shall be considered as state officers,  
23 and employees of the air pollution control authority shall be  
24 considered as state employees, for the sole purpose of applying the  
25 restrictions of chapter 42.52 RCW to this section.

26 NEW SECTION. Sec. 13. A new section is added to chapter 43.42 RCW  
27 to read as follows:

28 This chapter shall not be construed to limit or abridge the powers  
29 and duties granted to a participating permit agency under the law that  
30 authorizes or requires the agency to issue a permit for a project.  
31 Each participating permit agency shall retain its authority to make all  
32 decisions on all nonprocedural matters with regard to the respective  
33 component permit that is within its scope of its responsibility  
34 including, but not limited to, the determination of permit application  
35 completeness, permit approval or approval with conditions, or permit

1 denial. The office may not substitute its judgment for that of a  
2 participating permit agency on any such nonprocedural matters.

--- END ---