
SENATE BILL 5748

State of Washington

61st Legislature

2009 Regular Session

By Senators Eide, Morton, Berkey, Sheldon, Marr, Delvin, Kilmer, and Shin

Read first time 01/30/09. Referred to Committee on Economic Development, Trade & Innovation.

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~~((r))~~ and costs~~((r—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.

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