
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2631

State of Washington

60th Legislature

2008 Regular Session

By House Appropriations Subcommittee on General Government & Audit Review (originally sponsored by Representatives Linville, Kretz, and Sullivan)

READ FIRST TIME 02/07/08.

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; adding new sections to chapter
5 43.42 RCW; and creating a new section.

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 a burden on business.

24 (2) Therefore, the legislature finds that to best promote
25 accountability, timeliness, and predictability for citizens, business,
26 and state and local permitting agencies, it is necessary to provide
27 information and assistance on the regulatory process through the
28 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 businesses with active
35 assistance for all permitting, licensing, and other regulatory
36 procedures required for completion of specific projects. Further, the
37 office of regulatory assistance is created to ensure that citizens,
38 businesses, and local governments have access to, and clear information

1 regarding, regulatory processes for permitting and business regulation,
2 including state rules, permit and license requirements, and agency
3 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, recognizing that changes in the
31 project or other circumstances may change the information required,
32 including the agency's best estimate of the number of times projects of
33 a similar size and complexity have been asked to clarify, improve, or
34 provide supplemental information before a decision, and the expected
35 agency response time; 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 necessary studies, ((or)) and
2 the timing of any expected public processes ((that will be incurred
3 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) "Office" means the office of regulatory assistance ((in the
14 office of financial management)) established in RCW 43.42.010.

15 ((+2)) (3) "Permit" means any permit, certificate, use
16 authorization, or other form of governmental review or approval
17 required in order to construct, expand, or operate a project in the
18 state of Washington.

19 ((+3)) (4) "Permit agency" means any state, local, or federal
20 agency authorized by law to issue permits.

21 ((+4)) (5) "Project" means any activity, the conduct of which
22 requires a permit or permits from one or more permit agencies.

23 ((+5)) (6) "Project proponent" means a citizen, business, or any
24 entity applying for or seeking a permit or permits in the state of
25 Washington.

26 (7) "Qualifying coordinated permit process project" means a
27 qualifying project as designated by the director that is not required
28 to use cost-reimbursement.

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

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

35 (2) The governor shall appoint a director. The director may employ

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

4 (3) The office shall provide the following services:

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

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

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

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

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

12 ~~(f) Help)) Preapplication project scoping as provided in RCW~~
13 ~~43.42.050;~~

14 (b) Facilitation as provided in RCW 43.42.060;

15 (c) Coordinated permit process as provided in section 7 of this
16 act;

17 (d) Helping local jurisdictions comply with the requirements of RCW
18 36.70B.080 by:

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

21 (ii) Providing technical assistance in reducing the turnaround time
22 between submittal of an application for a development permit and the
23 issuance of the permit; and

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

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

27 ~~(i)) (e) Maintaining and furnishing information as provided in RCW~~
28 ~~43.42.040.~~

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

32 ~~((i)) (a) A performance report((, based on the customer surveys~~
33 ~~required in (h) of this subsection)) including:~~

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

36 (ii) The number and type of projects where the office provided
37 services; and

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

1 ~~((ii))~~ (b) A report ~~((on))~~ with recommendations on system
2 improvements including recommendations regarding measurement of overall
3 system performance, any conflicts ~~((identified by the office in the~~
4 ~~course of its duties))~~, overlaps, and inconsistencies arising from
5 differing statutory or regulatory authorities, roles and missions of
6 agencies, timing and sequencing of permitting and procedural
7 requirements, or otherwise, as identified by the office in the course
8 of its duties and how these were or could be resolved~~((; and~~

9 ~~(iii) A report regarding negotiation and implementation of~~
10 ~~voluntary cost reimbursement agreements and use of outside independent~~
11 ~~consultants under RCW 43.42.070, including the nature and amount of~~
12 ~~work performed and implementation of requirements relating to costs)).~~

13 ~~((3))~~ (5) The office shall ensure the equitable delivery and
14 provision of assistance services, regardless of project type, scale,
15 fund source, or assistance request.

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

18 ~~((At the request of a project proponent, the office shall assist~~
19 ~~the project proponent in determining what regulatory requirements,~~
20 ~~processes, and permits apply to the project, as provided in this~~
21 ~~section.~~

22 ~~(1) The office shall assign a project facilitator who shall discuss~~
23 ~~applicable regulatory requirements, permits, and processes with the~~
24 ~~project proponent and explain the available options for obtaining~~
25 ~~required permits and regulatory review.))~~

26 (1) Upon request of a project proponent, the office shall determine
27 the level of project scoping needed by the project proponent, taking
28 into consideration the complexity of the project.

29 ~~(2) ((If the project proponent and the project facilitator agree~~
30 ~~that the project would benefit from a project scoping, the project~~
31 ~~facilitator shall conduct a project scoping with the project proponent~~
32 ~~and the relevant permitting and regulatory agencies. The project~~
33 ~~facilitator shall invite the participation of the relevant federal~~
34 ~~agencies and tribal governments.))~~

35 (a) The purpose of the project scoping is to identify ~~((the))~~
36 relevant issues and information needs of the project proponent and
37 ~~((the participating permit agencies regarding the project, share~~

1 ~~perspectives, and jointly develop a strategy for the processing of~~
2 ~~required permits by each participating permit agency)) permitting~~
3 ~~agencies and to reach a common understanding regarding the process,~~
4 ~~timing, and sequencing for obtaining applicable permits.~~

5 (b) The ((~~scoping~~)) extent of preapplication project scoping shall
6 consider the complexity, size, and needs for assistance of the project
7 and shall address as appropriate:

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

9 (ii) The permit application forms and other application
10 requirements of the participating permit agencies;

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

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

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

18 (vi) The anticipated time required for permit decisions by each
19 participating permit agency, including the time required to determine
20 if the permit application is complete, to conduct environmental review,
21 and to review and process the application. In determining the
22 estimated time required, full consideration must be given to achieving
23 the greatest possible efficiencies through any concurrent studies and
24 any consolidated applications, hearings, and comment periods.

25 (c) The outcome of the project scoping shall be documented in
26 writing, furnished to the project proponent, and be made available to
27 the public.

28 (d) The project scoping shall be completed within sixty days of the
29 project proponent's request for a project scoping.

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

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

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

3 (1) The office may ~~((coordinate the processing by participating~~
4 ~~permit agencies of permits required for a project,))~~ provide
5 facilitation services at the request of ~~((the))~~ a project proponent
6 regarding interjurisdictional permitting issues, project-related
7 conflict and dispute resolution, and as part of the coordinated permit
8 process. Facilitation may be provided through a cost-reimbursement
9 agreement as provided in ~~((subsection (3) of this section or with the~~
10 ~~agreement of the project proponent as provided in subsection (4) of~~
11 ~~this section))~~ RCW 43.42.070 or in section 7(10) of this act.
12 Facilitation may also be provided without cost-reimbursement as
13 determined by the director.

14 (2) The office shall assign a project ~~((coordinator))~~ facilitator
15 to perform any or all of the following functions, as specified by the
16 terms of a cost-reimbursement agreement under ~~((subsection (3) of this~~
17 ~~section or an agreement under subsection (4) of this section))~~ RCW
18 43.42.070 or as designated by the director:

19 (a) Serve as the main point of contact for the project proponent;
20 (b) Conduct a project scoping as provided in RCW 43.42.050(2);
21 (c) Verify that the project proponent has all the information
22 needed to complete applications;

23 (d) ~~((Coordinate the permit processes of the permit agencies))~~
24 Provide facilitation services as a stand-alone event or as an element
25 of broader project facilitation for project assistance, interagency
26 coordination, or planning teams;

27 (e) ~~((Manage the))~~ Coordinate applicable administrative procedures
28 among participating agencies;

29 (f) Work to assure that timely permit decisions are made by the
30 permit agencies and maintain contact with the project proponent and the
31 permit agencies to help ensure adherence to schedules;

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

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

36 ~~((3) At the request of a project proponent and as provided in RCW~~
37 ~~43.42.070, the project coordinator shall coordinate negotiations among~~
38 ~~the project proponent, the office, and participating permit agencies to~~

1 ~~enter into a cost reimbursement agreement and shall coordinate~~
2 ~~implementation of the agreement, which shall govern coordination of~~
3 ~~permit processing by the participating permit agencies.~~

4 ~~(4) For industrial projects of statewide significance or if the~~
5 ~~office determines that it is in the public interest to coordinate the~~
6 ~~processing of permits for certain projects that are complex in scope,~~
7 ~~require multiple permits, involve multiple jurisdictions, or involve a~~
8 ~~significant number of affected parties, the office shall, upon the~~
9 ~~proponent's request, enter into an agreement with the project proponent~~
10 ~~and the participating permit agencies to coordinate the processing of~~
11 ~~permits for the project. The office may limit the number of such~~
12 ~~agreements according to the resources available to the office and the~~
13 ~~permit agencies at the time.))~~

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.42 RCW
15 to read as follows:

16 (1) At the request of a project proponent, the office shall assist
17 the project proponent in coordinating the permit process by determining
18 what regulatory requirements, processes, and permits may be required
19 for development and operation of the proposed project.

20 (2) A project proponent who requests the designation of a
21 coordinated permit process project through a cost-reimbursement
22 agreement or is designated as a qualifying coordinated permit process
23 project must provide the office with a description of the project. The
24 office may request any information from the project proponent that is
25 necessary to make the designation under this section, and may convene
26 a scoping meeting of the likely participating permit agencies.

27 (3) The office shall serve as the main point of contact for the
28 project proponent and participating permitting agencies with regard to
29 the coordinated permit process for the project and shall keep an
30 up-to-date project management log and schedule illustrating required
31 procedural steps in the permitting process, and highlighting
32 substantive issues as appropriate that must be resolved in order for
33 the project to move forward. In carrying out these responsibilities,
34 the office shall ensure that the project proponent has all the
35 information needed to apply for all the component permits that are
36 incorporated in the coordinated permit process for the project,
37 coordinate the review of those permits by the respective participating

1 permit agencies, facilitate so that timely permit decisions are made by
2 the participating permit agencies, and assist in resolving any conflict
3 or inconsistency among the permit requirements and conditions that are
4 to be imposed by the participating permit agencies with regard to the
5 project. The office shall keep in contact with the project proponent
6 as well as with other permit agencies in order to assist the process in
7 progressing as scheduled. The office shall also make contact, at least
8 once, with any local, tribal, or federal jurisdiction that is
9 responsible for issuing a permit for the project and may invite them to
10 participate in the coordinated permit process or to receive periodic
11 updates in the project.

12 (4) Within thirty days, or longer with agreement of the project
13 proponent, of the date that the office designates a qualifying
14 coordinated permit process project or enters into a cost-reimbursement
15 agreement for a coordinated permit process project, it shall convene a
16 meeting with the project proponent for the project and the
17 participating permit agencies. Additional meetings for updates,
18 debriefings, or revisions of the coordinated permit process schedule
19 must be convened within twenty-one days of a permit decision or at
20 least once every nine months unless the meetings are waived by the
21 project proponent. The meeting agenda shall include at least the
22 development of a coordinated permit process schedule to address the
23 following:

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

25 (b) A review of the permit application forms and other application
26 requirements of the agencies that are participating in the coordinated
27 permit process;

28 (c)(i) An estimation of the timelines that will be used by the
29 office and each participating permit agency to make permit decisions,
30 including the estimated time periods required to determine if the
31 permit applications are complete; and to review or respond to each
32 application or submittal of new information, including the estimated
33 number of revision cycles. In the development of this timeline, full
34 attention shall be given to achieving the maximum efficiencies possible
35 through concurrent studies and consolidated applications, hearings, and
36 comment periods. Except as provided in (c)(ii) of this subsection, the
37 timelines established under this subsection, with the assent of the
38 office and each participating permit agency, shall commit the office

1 and each participating permit agency to act on the component permit
2 within time periods that are different than those required by other
3 applicable provisions of law;

4 (ii) An accelerated time period for the consideration of a permit
5 application may not be set if that accelerated time period would be
6 inconsistent with, or in conflict with, any time period or series of
7 time periods set by statute for that consideration, or with any
8 statute, rule, or regulation, or adopted state policy, standard, or
9 guideline that requires any of the following:

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

12 (B) Other agencies to be given a role in, or be allowed to
13 participate in, the decision to approve or disapprove the application;
14 or

15 (C) Interested persons or the public to be provided the opportunity
16 to challenge, comment on, or otherwise voice their concerns regarding
17 the application;

18 (d) Available information regarding the timing of any public
19 hearings that are required to issue permits for the project and a
20 determination of the feasibility of coordinating or consolidating any
21 of those required public hearings; and

22 (e) A discussion of fee arrangements for the coordinated permit
23 process, including an estimate of the costs allowed by statute, any
24 reimbursable agency costs, and the billing schedule.

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

31 (6) If a permit agency or the project proponent foresees, at any
32 time, that it will be unable to meet the estimated timelines or other
33 obligations under the agreement, it shall notify the office of the
34 reasons for the problem and offer potential solutions or an amended
35 timeline for resolving the problem. The office shall notify the
36 participating permit agencies and the project proponent and, upon
37 agreement of all parties, adjust the schedule, or, if necessary,
38 schedule another work plan meeting.

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

4 (8) A summary of the decisions made under this section shall be
5 made available for public review upon the filing of the coordinated
6 permit process application or permit applications.

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

12 (10) For industrial projects of statewide significance, essential
13 public facilities as provided in chapter 36.70A RCW, or if the director
14 determines that it is in the public interest to coordinate and
15 facilitate the processing of permits for certain projects, the office
16 shall, upon the proponent's request, enter into an agreement with the
17 project proponent to provide such services according to the resources
18 available to the office and the permit agencies at the time.

19 **Sec. 8.** RCW 43.42.070 and 2007 c 94 s 8 are each amended to read
20 as follows:

21 (1) The office may (~~coordinate negotiation and implementation of~~
22 ~~a written agreement among the~~) enter into cost-reimbursement
23 agreements with a project proponent(~~(, the office, and participating~~
24 ~~permit agencies)) to recover from the project proponent the reasonable
25 costs incurred by the office in carrying out the provisions of RCW
26 43.42.050(2) and 43.42.060(2) (~~and by participating~~). The agreement
27 shall include the permit agencies (~~(in)~~) that are participating in the
28 cost-reimbursement project and carrying out permit processing tasks
29 specified in the agreement.~~

30 (2) (~~The office may coordinate negotiation and implementation of~~
31 ~~a written agreement among the project proponent, the office, and~~
32 ~~participating permit agencies to recover from the project proponent the~~
33 ~~reasonable costs incurred by outside independent consultants selected~~
34 ~~by the office and participating permit agencies to perform permit~~
35 ~~processing tasks.~~

36 (~~3) Outside independent consultants may only bill for the costs of~~
37 ~~performing those permit processing tasks that are specified in a cost-~~

1 reimbursement agreement under this section. The billing process shall
2 provide for accurate time and cost accounting and may include a billing
3 cycle that provides for progress payments.

4 ~~(4))~~ The office shall adopt a policy to coordinate cost-
5 reimbursement agreements with outside independent consultants.
6 ~~((Cost reimbursement agreements coordinated))~~ The office shall develop
7 guidelines to ensure that, in developing cost-reimbursement agreements,
8 conflicts of interest are eliminated. Contracts with independent
9 consultants hired by the office under this section must be based on
10 competitive bids that are awarded for each agreement from a
11 prequalified consultant roster.

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

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

19 ~~(7) For a cost reimbursement agreement, the office and~~
20 ~~participating permit agencies shall negotiate a work plan and schedule~~
21 ~~for reimbursement. Prior to distributing scheduled reimbursement to~~
22 ~~the agencies, the office shall verify that the agencies have met the~~
23 ~~obligations contained in their work plan.~~

24 ~~(8) Prior to commencing negotiations with the project proponent for~~
25 ~~a cost reimbursement agreement, the office shall request work load~~
26 ~~analyses from each participating permitting agency. These analyses~~
27 ~~shall be available to the public. The work load of a participating~~
28 ~~permit agency may only be modified with the concurrence of the agency~~
29 ~~and if there is both good cause to do so and no significant impact on~~
30 ~~environmental review.~~

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

33 ~~(10))~~ (3) For project permit processes that it coordinates, the
34 office shall coordinate the negotiation of all cost-reimbursement
35 agreements executed under RCW 43.21A.690, 43.30.490, 43.70.630,
36 43.300.080, and 70.94.085. The office, proponent, and the permit
37 agencies shall be signatories to the agreements. Each permit agency
38 shall manage performance of its portion of the agreement. Independent

1 consultants hired under a cost-reimbursement agreement shall report
2 directly to the permit agency. The office shall assure that final
3 decisions are made by the permit agency and not by the consultant.

4 ~~((11))~~ (4) For a coordinated cost-reimbursement agreement, the
5 office and participating permit agencies shall negotiate a work plan
6 and schedule for reimbursement. Before distributing scheduled
7 reimbursement to the agencies, the office shall verify that the
8 agencies have met the obligations contained in their work plan. The
9 cost-reimbursement agreement shall identify the specific tasks of each
10 agency and costs for work conducted under the agreement. The agreement
11 must include a schedule that states:

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

14 (b) The anticipated number of revision cycles;

15 (c) The estimated number of weeks for review of subsequent revision
16 submittals;

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

18 (e) The rate per hour; and

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

20 (5) If a permit agency or the project proponent foresees, at any
21 time, that it will be unable to meet its obligations under the cost-
22 reimbursement agreement, it shall notify the office and state the
23 reasons, along with proposals for resolving the problems and
24 potentially amending the timelines. The office shall notify the
25 participating permit agencies and the project proponent and, upon
26 agreement of all parties, adjust the schedule, or, if necessary,
27 coordinate revision of the work plan.

28 **Sec. 9.** RCW 43.21A.690 and 2007 c 94 s 10 are each amended to read
29 as follows:

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

1 (2) The cost-reimbursement agreement shall identify the specific
2 tasks(~~(7)~~) and costs(~~(7 and schedule)~~) for work to be conducted under
3 the agreement. The agreement 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 applicant or project proponent. Under the
14 provisions of a cost-reimbursement agreement, funds from the applicant
15 shall be used by the department to contract with an independent
16 consultant to carry out the work covered by the cost-reimbursement
17 agreement. The department may also use funds provided under a cost-
18 reimbursement agreement to hire temporary employees, to assign current
19 staff to review the work of the consultant, to provide necessary
20 technical assistance when an independent consultant with comparable
21 technical skills is unavailable, and to recover reasonable and
22 necessary direct and indirect costs that arise from processing the
23 permit. The department shall, in developing the agreement, ensure that
24 final decisions that involve policy matters are made by the agency and
25 not by the consultant. The department shall make an estimate of the
26 number of permanent staff hours to process the permits, and shall
27 contract with consultants or hire temporary employees to replace the
28 time and functions committed by these permanent staff to the project.
29 The billing process shall provide for accurate time and cost accounting
30 and may include a billing cycle that provides for progress payments.
31 (~~Use of cost reimbursement agreements shall not reduce the current~~
32 ~~level of staff available to work on permits not covered by cost~~
33 ~~reimbursement agreements. The department may not use any funds under~~
34 ~~a cost reimbursement agreement to replace or supplant existing~~
35 ~~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 43.30.490 and 2007 c 188 s 1 and 2007 c 94 s 11 are
8 each reenacted and amended to read as follows:

9 (1) The department may enter into a written cost-reimbursement
10 agreement with a permit or lease applicant or project proponent to
11 recover from the applicant or proponent the reasonable costs incurred
12 by the department in carrying out the requirements of this chapter, as
13 well as the requirements of other relevant laws, as they relate to
14 permit coordination, environmental review, application review,
15 technical studies, establishment of development units and approval or
16 establishment of pooling agreements under chapter 78.52 RCW, including
17 necessary technical studies, permit or lease processing, and monitoring
18 for permit compliance.

19 (2) The cost-reimbursement agreement shall identify the specific
20 tasks(~~(7)~~) and costs(~~(7 and schedule)~~) for work to be conducted under
21 the agreement. The agreement must include a schedule that states:

22 (a) The estimated number of weeks for initial review of the permit
23 application;

24 (b) The estimated number of revision cycles;

25 (c) The estimated number of weeks for review of subsequent revision
26 submittals;

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

28 (e) The rate per hour; and

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

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

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

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

26 **Sec. 11.** RCW 43.70.630 and 2007 c 94 s 12 are each amended to read
27 as follows:

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

35 (2) The cost-reimbursement agreement shall identify the specific
36 tasks((~~7~~)) and costs((~~7~~ and schedule)) for work to be conducted under
37 the agreement. The agreement 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 or proponent shall be used by the department to contract with an
13 independent consultant to carry out the work covered by the cost-
14 reimbursement agreement. The department may also use funds provided
15 under a cost-reimbursement agreement to hire temporary employees, to
16 assign current staff to review the work of the consultant, to provide
17 necessary technical assistance when an independent consultant with
18 comparable technical skills is unavailable, and to recover reasonable
19 and 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 43.300.080 and 2007 c 94 s 13 are each amended to
5 read as follows:

6 (1) The department 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 department 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 the specific
14 tasks(~~(7)~~) and costs(~~(7, and schedule)~~) for work to be conducted under
15 the agreement. The agreement must include a schedule that states:

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

18 (b) The estimated number of revision cycles;

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

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

22 (e) The rate per hour; and

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

24 (~~(2)~~) (3) The written cost-reimbursement agreement shall be
25 negotiated with the permit applicant or project proponent. Under the
26 provisions of a cost-reimbursement agreement, funds from the applicant
27 shall be used by the department to contract with an independent
28 consultant to carry out the work covered by the cost-reimbursement
29 agreement. The department may also use funds provided under a cost-
30 reimbursement agreement to hire temporary employees, to assign current
31 staff to review the work of the consultant, to provide necessary
32 technical assistance when an independent consultant with comparable
33 technical skills is unavailable, and to recover reasonable and
34 necessary direct and indirect costs that arise from processing the
35 permit. The department shall, in developing the agreement, ensure that
36 final decisions that involve policy matters are made by the agency and
37 not by the consultant. The department shall make an estimate of the

1 number of permanent staff hours to process the permits, and shall
2 contract with consultants or hire temporary employees to replace the
3 time and functions committed by these permanent staff to the project.
4 The billing process shall provide for accurate time and cost accounting
5 and may include a billing cycle that provides for progress payments.
6 (~~Use of cost reimbursement agreements shall not reduce the current~~
7 ~~level of staff available to work on permits not covered by cost~~
8 ~~reimbursement agreements. The department may not use any funds under~~
9 ~~a cost reimbursement agreement to replace or supplant existing~~
10 ~~funding.~~)

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

20 **Sec. 13.** RCW 70.94.085 and 2007 c 94 s 14 are each amended to read
21 as follows:

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

29 (2) The cost-reimbursement agreement shall identify the specific
30 tasks((~~7~~)) and costs((~~7~~ and schedule)) for work to be conducted under
31 the agreement. The agreement must include a schedule that states:

32 (a) The estimated number of weeks for initial review of the permit
33 application;

34 (b) The estimated number of revision cycles;

35 (c) The estimated number of weeks for review of subsequent revision
36 submittals;

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

1 (e) The rate per hour; and

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

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

28 (4) The cost-reimbursement agreement must not negatively impact the
29 processing of other permit applications. In order to maintain permit
30 processing capacity, the agency may hire outside consultants, temporary
31 employees, or make internal administrative changes. Consultants or
32 temporary employees hired as part of a cost-reimbursement agreement or
33 to maintain agency capacity are hired as agents of the state not of the
34 permit applicant. The provisions of chapter 42.52 RCW apply to any
35 cost-reimbursement agreement, and to any person hired as a result of a
36 cost-reimbursement agreement. Members of the air pollution control
37 authority's board of directors shall be considered as state officers,

1 and employees of the air pollution control authority shall be
2 considered as state employees, for the sole purpose of applying the
3 restrictions of chapter 42.52 RCW to this section.

4 NEW SECTION. **Sec. 14.** A new section is added to chapter 43.42 RCW
5 to read as follows:

6 This chapter shall not be construed to limit or abridge the powers
7 and duties granted to a participating permit agency under the law that
8 authorizes or requires the agency to issue a permit for a project.
9 Each participating permit agency shall retain its authority to make all
10 decisions on all nonprocedural matters with regard to the respective
11 component permit that is within its scope of its responsibility
12 including, but not limited to, the determination of permit application
13 completeness, permit approval or approval with conditions, or permit
14 denial. The office may not substitute its judgment for that of a
15 participating permit agency on any such nonprocedural matters.

16 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
17 this act, referencing this act by bill or chapter number, is not
18 provided by June 30, 2008, in the omnibus appropriations act, this act
19 is null and void.

--- END ---