
HOUSE BILL 2631

State of Washington

60th Legislature

2008 Regular Session

By Representatives Linville, Kretz, and Sullivan

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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 new sections 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 the complex and
22 confusing network of environmental and land use laws and business
23 regulations creates 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 a forum for improving the regulatory process and for assistance
6 through regulatory processes on individual projects in furtherance of
7 the state's goals of governmental transparency and accountability.

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

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

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

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

22 (a) ((A date and time for a decision on a permit or regulatory
23 requirement)) The current average and median turnaround times from the
24 date of application to date of decision for the required permit,
25 licenses, or other necessary regulatory decisions for projects of a
26 comparable size and complexity;

27 (b) The information required for an agency to make a decision on a
28 permit or regulatory requirement, recognizing that changes in the
29 project or other circumstances may change the information required,
30 including the agency's best estimate of the number of times an
31 applicant will be asked to clarify, improve, or provide supplemental
32 information to the agency before a decision and the average and median
33 review time needed for each review cycle; and

34 (c) An estimate of the maximum amount of costs in fees((~~τ~~)) to be
35 paid to state agencies and the type of any necessary studies((~~τ~~ or ~~τ~~))
36 and timing of any expected public processes that will be incurred by
37 the project proponent.

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

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

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Director" means the director of the office of regulatory
9 assistance.

10 (2) "Office" means the office of regulatory assistance in the
11 office of financial management established in RCW 43.42.010.

12 ~~((+2))~~ (3) "Permit" means any permit, certificate, use
13 authorization, or other form of governmental review or approval
14 required in order to construct, expand, or operate a project in the
15 state of Washington.

16 ~~((+3))~~ (4) "Permit agency" means any state, local, or federal
17 agency authorized by law to issue permits.

18 ~~((+4))~~ (5) "Project" means any activity, the conduct of which
19 requires a permit or permits from one or more permit agencies.

20 ~~((+5))~~ (6) "Project proponent" means a citizen, business, or any
21 entity applying for or seeking a permit or permits in the state of
22 Washington.

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

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

28 (1) The office of regulatory assistance is created in the office of
29 financial management and shall be administered by the office of the
30 governor to assist citizens, businesses, and project proponents.

31 (2) The governor shall appoint a director. The director may employ
32 a deputy director and a confidential secretary and such staff as are
33 necessary to carry out the purposes of this chapter.

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

35 (a) ~~((Maintain and furnish information as provided in RCW~~
36 ~~43.42.040;~~

1 ~~(b) Furnish facilitation as provided in RCW 43.42.050;~~
2 ~~(c) Furnish coordination as provided in RCW 43.42.060;~~
3 ~~(d) Coordinate cost reimbursement as provided in RCW 43.42.070;~~
4 ~~(e) Work with governmental agencies to continue to develop a range~~
5 ~~of permitting and regulatory assistance options for project proponents;~~
6 ~~(f) Help)) Preapplication project scoping as provided in RCW~~
7 ~~43.42.050;~~

8 (b) Facilitation as provided in RCW 43.42.060;

9 (c) Coordinated permit process as provided in section 7 of this
10 act;

11 (d) Helping local jurisdictions comply with the requirements of RCW
12 36.70B.080 by:

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

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

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

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

21 ~~(i)) (e) Maintaining and furnishing information as provided in RCW~~
22 ~~43.42.040.~~

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

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

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

30 (ii) The number and type of projects where the office provided
31 services; and

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

33 ~~((ii)) (b) A report ((en)) with recommendations on system~~
34 ~~improvements including any conflicts ((identified by the office in the~~
35 ~~course of its duties)), overlaps, and inconsistencies arising from~~
36 differing statutory or regulatory authorities, roles and missions of
37 agencies, timing and sequencing of permitting and procedural

1 requirements, or otherwise, as identified by the office in the course
2 of its duties and how these were or could be resolved(~~(; and~~
3 ~~(iii) A report regarding negotiation and implementation of~~
4 ~~voluntary cost reimbursement agreements and use of outside independent~~
5 ~~consultants under RCW 43.42.070, including the nature and amount of~~
6 ~~work performed and implementation of requirements relating to costs)).~~
7 ~~((3))~~ (5) The office shall ensure the equitable delivery and
8 provision of assistance services, regardless of project type, scale,
9 fund source, or assistance request.

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

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

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

20 (1) Upon request of a project proponent, the office shall determine
21 the level of project scoping needed by the project proponent, taking
22 into consideration the complexity of the project.

23 ~~(2) ((If the project proponent and the project facilitator agree~~
24 ~~that the project would benefit from a project scoping, the project~~
25 ~~facilitator shall conduct a project scoping with the project proponent~~
26 ~~and the relevant permitting and regulatory agencies. The project~~
27 ~~facilitator shall invite the participation of the relevant federal~~
28 ~~agencies and tribal governments.))~~

29 (a) The purpose of the project scoping is to identify ~~((the))~~
30 relevant issues and information needs of the project proponent and
31 ~~((the participating permit agencies regarding the project, share~~
32 ~~perspectives, and jointly develop a strategy for the processing of~~
33 ~~required permits by each participating permit agency))~~ permitting
34 agencies and to reach a common understanding regarding the process,
35 timing, and sequencing for obtaining applicable permits.

36 (b) The ~~((scoping))~~ extent of preapplication project scoping shall

1 consider the complexity, size, and needs for assistance of the project
2 and shall address as appropriate:

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

4 (ii) The permit application forms and other application
5 requirements of the participating permit agencies;

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

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

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

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

20 (c) The outcome of the project scoping shall be documented in
21 writing, furnished to the project proponent, and be made available to
22 the public.

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

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

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

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

34 (1) The office may (~~coordinate the processing by participating~~
35 ~~permit agencies of permits required for a project,~~) provide
36 facilitation services at the request of (~~the~~) a project proponent
37 regarding interjurisdictional permitting issues, project-related

1 conflict and dispute resolution, and as part of the coordinated permit
2 process. Facilitation may be provided through a cost-reimbursement
3 agreement as provided in ~~((subsection (3) of this section or with the~~
4 ~~agreement of the project proponent as provided in subsection (4) of~~
5 ~~this section))~~ RCW 43.42.070 or in section 7(10) of this act.
6 Facilitation may also be provided without cost-reimbursement as
7 determined by the director.

8 (2) The office shall assign a project ~~((coordinator))~~ facilitator
9 to perform any or all of the following functions, as specified by the
10 terms of a cost-reimbursement agreement under ~~((subsection (3) of this~~
11 ~~section or an agreement under subsection (4) of this section))~~ RCW
12 43.42.070 or as designated by the director:

- 13 (a) Serve as the main point of contact for the project proponent;
- 14 (b) Conduct a project scoping as provided in RCW 43.42.050(2);
- 15 (c) Verify that the project proponent has all the information
16 needed to complete applications;

17 ~~((Coordinate the permit processes of the permit agencies))~~
18 Provide facilitation services as a stand-alone event or as an element
19 of broader project facilitation for project assistance, interagency
20 coordination, or planning teams;

21 ~~((Manage the))~~ Coordinate applicable administrative procedures
22 among participating agencies;

23 (f) Work to assure that timely permit decisions are made by the
24 permit agencies and maintain contact with the project proponent and the
25 permit agencies to ensure adherence to schedules;

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

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

30 ~~((3) At the request of a project proponent and as provided in RCW~~
31 ~~43.42.070, the project coordinator shall coordinate negotiations among~~
32 ~~the project proponent, the office, and participating permit agencies to~~
33 ~~enter into a cost reimbursement agreement and shall coordinate~~
34 ~~implementation of the agreement, which shall govern coordination of~~
35 ~~permit processing by the participating permit agencies.~~

36 ~~(4) For industrial projects of statewide significance or if the~~
37 ~~office determines that it is in the public interest to coordinate the~~
38 ~~processing of permits for certain projects that are complex in scope,~~

1 ~~require multiple permits, involve multiple jurisdictions, or involve a~~
2 ~~significant number of affected parties, the office shall, upon the~~
3 ~~proponent's request, enter into an agreement with the project proponent~~
4 ~~and the participating permit agencies to coordinate the processing of~~
5 ~~permits for the project. The office may limit the number of such~~
6 ~~agreements according to the resources available to the office and the~~
7 ~~permit agencies at the time.))~~

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

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

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

21 (3) The office shall serve as the main point of contact for the
22 project proponent and participating permitting agencies with regard to
23 the coordinated permit process for the project and shall manage the
24 procedural aspects of that processing consistent with existing laws
25 governing the participating permit agencies and with the procedures
26 agreed to by those agencies. In carrying out these responsibilities,
27 the office shall ensure that the project proponent has all the
28 information needed to apply for all the component permits that are
29 incorporated in the coordinated permit process for the project,
30 coordinate the review of those permits by the respective participating
31 permit agencies, facilitate so that timely permit decisions are made by
32 the participating permit agencies, and assist in resolving any conflict
33 or inconsistency among the permit requirements and conditions that are
34 to be imposed by the participating permit agencies with regard to the
35 project. The office shall keep in contact with the project proponent
36 as well as with other permit agencies in order to assist the process in

1 progressing as scheduled. The office shall also make contact, at least
2 once, with any local, tribal, or federal jurisdiction that is
3 responsible for issuing a permit for the project.

4 (4) Within thirty days, or longer with agreement of the project
5 proponent, of the date that the office designates a qualifying
6 coordinated permit process project or enters into a cost-reimbursement
7 agreement for a coordinated permit process project, it shall convene a
8 meeting with the project proponent for the project and the
9 participating permit agencies. Additional meetings must be convened
10 within twenty-one days of a permit decision or at least once every nine
11 months unless the meetings are waived by the project proponent. The
12 meeting agenda shall include at least all of the following:

13 (a) An estimation of the permits that are required for the project;

14 (b) A review of the permit application forms and other application
15 requirements of the agencies that are participating in the coordinated
16 permit process;

17 (c)(i) A determination of the timelines that will be used by the
18 office and each participating permit agency to make permit decisions,
19 including the time periods required to determine if the permit
20 applications are complete, to review the application or applications,
21 to process the component permits, and the anticipated number of
22 revision cycles. In the development of this timeline, full attention
23 shall be given to achieving the maximum efficiencies possible through
24 concurrent studies, consolidated applications, hearings, and comment
25 periods. Except as provided in (c)(ii) of this subsection, the
26 timelines established under this subsection, with the assent of the
27 office and each participating permit agency, shall commit the office
28 and each participating permit agency to act on the component permit
29 within time periods that are different than those required by other
30 applicable provisions of law;

31 (ii) An accelerated time period for the consideration of a permit
32 application may not be set if that accelerated time period would be
33 inconsistent with, or in conflict with, any time period or series of
34 time periods set by statute for that consideration, or with any
35 statute, rule, or regulation, or adopted state policy, standard, or
36 guideline that requires any of the following:

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

1 (B) Other agencies to be given a role in, or be allowed to
2 participate in, the decision to approve or disapprove the application;
3 or

4 (C) Interested persons or the public to be provided the opportunity
5 to challenge, comment on, or otherwise voice their concerns regarding
6 the application;

7 (d) Information available regarding and estimated timing of any
8 public hearings that are required to issue permits for the project and
9 a determination of the feasibility of coordinating or consolidating any
10 of those required public hearings; and

11 (e) A discussion of fee arrangements for the coordinated permit
12 process, including an estimate of the costs allowed by statute and the
13 billing schedule.

14 (5) Each agency shall send at least one representative qualified to
15 make decisions concerning the applicability and timelines associated
16 with all permits administered by that jurisdiction. At the request of
17 the project proponent, the office shall notify any relevant federal
18 agency or federally recognized Indian tribe of the date of the meeting
19 and invite that agency's participation in the process.

20 (6) If a permit agency or the project proponent foresees, at any
21 time, that it will be unable to meet its obligations under the
22 agreement, it shall notify the office of the problem. The office shall
23 notify the participating permit agencies and the project proponent and,
24 upon agreement of all parties, adjust the schedule, or, if necessary,
25 schedule another work plan meeting.

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

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

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

37 (10) For industrial projects of statewide significance, essential
38 public facilities as provided in chapter 36.70A RCW, or if the director

1 determines that it is in the public interest to coordinate and
2 facilitate the processing of permits for certain projects, the office
3 shall, upon the proponent's request, enter into an agreement with the
4 project proponent to provide such services according to the resources
5 available to the office and the permit agencies at the time.

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

8 (1) The office may (~~coordinate negotiation and implementation of~~
9 ~~a written agreement among the~~) enter into cost-reimbursement
10 agreements with a project proponent, the office, and participating
11 permit agencies to recover from the project proponent the reasonable
12 costs incurred by the office in carrying out the provisions of RCW
13 43.42.050(2) and 43.42.060(2) and by participating permit agencies in
14 carrying out permit processing tasks specified in the agreement.

15 (2) (~~The office may coordinate negotiation and implementation of~~
16 ~~a written agreement among the project proponent, the office, and~~
17 ~~participating permit agencies to recover from the project proponent the~~
18 ~~reasonable costs incurred by outside independent consultants selected~~
19 ~~by the office and participating permit agencies to perform permit~~
20 ~~processing tasks.~~

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

26 (4)) The office shall adopt a policy to coordinate cost-
27 reimbursement agreements with outside independent consultants.
28 (~~Cost reimbursement agreements coordinated~~) The office shall develop
29 guidelines to ensure that, in developing cost-reimbursement agreements,
30 conflicts of interest are eliminated. Contracts with independent
31 consultants hired by the office under this section must be based on
32 competitive bids that are awarded for each agreement from a
33 prequalified consultant roster.

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

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

4 ~~(7) For a cost reimbursement agreement, the office and~~
5 ~~participating permit agencies shall negotiate a work plan and schedule~~
6 ~~for reimbursement. Prior to distributing scheduled reimbursement to~~
7 ~~the agencies, the office shall verify that the agencies have met the~~
8 ~~obligations contained in their work plan.~~

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

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

18 ~~(10))~~ (3) For project permit processes that it coordinates, the
19 office shall coordinate the negotiation of all cost-reimbursement
20 agreements executed under RCW 43.21A.690, 43.30.490, 43.70.630,
21 43.300.080, and 70.94.085. The office, proponent, and the permit
22 agencies shall be signatories to the agreements. Each permit agency
23 shall manage performance of its portion of the agreement. Independent
24 consultants hired under a cost-reimbursement agreement shall report
25 directly to the permit agency. The office shall assure that final
26 decisions are made by the permit agency and not by the consultant.

27 ~~((11))~~ (4) For a cost-reimbursement agreement, the office and
28 participating permit agencies shall negotiate a work plan and schedule
29 for reimbursement. Before distributing scheduled reimbursement to the
30 agencies, the office shall verify that the agencies have met the
31 obligations contained in their work plan. The cost-reimbursement
32 agreement shall identify the specific tasks of each agency and costs
33 for work conducted under the agreement. The agreement must include a
34 schedule that states:

35 (a) The median number of weeks for initial review of the permit
36 application for comparable projects;

37 (b) The anticipated number of revision cycles;

1 (c) The average number of weeks for review of subsequent revision
2 submittals;

3 (d) Estimated number of billable hours of employee time;

4 (e) The rate per hour; and

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

6 (5) If a permit agency or the project proponent foresees, at any
7 time, that it will be unable to meet its obligations under the cost-
8 reimbursement agreement, it shall notify the office and state the
9 reasons. The office shall notify the participating permit agencies and
10 the project proponent and, upon agreement of all parties, adjust the
11 schedule, or, if necessary, coordinate revision of the work plan.

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

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

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

24 (a) The average number of weeks for initial review of the permit
25 application;

26 (b) The anticipated number of revision cycles;

27 (c) The average number of weeks of subsequent revision submittals;

28 (d) Estimated number of hours of employee time;

29 (e) The rate per hour; and

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

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

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

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

25 **Sec. 10.** RCW 43.30.490 and 2007 c 188 s 1 and 2007 c 94 s 11 are
26 each reenacted and amended to read as follows:

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

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 average number of weeks for initial review of the permit
5 application;

6 (b) The anticipated number of revision cycles;

7 (c) The average number of weeks of subsequent revision submittals;

8 (d) Estimated number of hours of employee time;

9 (e) The rate per hour; and

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

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

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

1 to maintain agency capacity are hired as agents of the state not of the
2 permit applicant. The restrictions of chapter 42.52 RCW apply to any
3 cost-reimbursement agreement, and to any person hired as a result of a
4 cost-reimbursement agreement.

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

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

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

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

19 (b) The anticipated number of revision cycles;

20 (c) The average number of weeks of subsequent revision submittals;

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

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

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

19 **Sec. 12.** RCW 43.300.080 and 2007 c 94 s 13 are each amended to
20 read as follows:

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

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

31 (a) The average number of weeks for initial review of the permit
32 application;

33 (b) The anticipated number of revision cycles;

34 (c) The average number of weeks of subsequent revision submittals;

35 (d) Estimated number of hours of employee time;

36 (e) The rate per hour; and

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

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

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

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

34 (1) An authority may enter into a written cost-reimbursement
35 agreement with a permit applicant or project proponent to recover from
36 the applicant or proponent the reasonable costs incurred by the
37 authority in carrying out the requirements of this chapter, as well as

1 the requirements of other relevant laws, as they relate to permit
2 coordination, environmental review, application review, technical
3 studies, and permit processing.

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

7 (a) The average number of weeks for initial review of the permit
8 application;

9 (b) The anticipated number of revision cycles;

10 (c) The average number of weeks of subsequent revision submittals;

11 (d) Estimated number of hours of employee time;

12 (e) The rate per hour; and

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

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

1 (4) The cost-reimbursement agreement must not negatively impact the
2 processing of other permit applications. In order to maintain permit
3 processing capacity, the agency may hire outside consultants, temporary
4 employees, or make internal administrative changes. Consultants or
5 temporary employees hired as part of a cost-reimbursement agreement or
6 to maintain agency capacity are hired as agents of the state not of the
7 permit applicant. The provisions of chapter 42.52 RCW apply to any
8 cost-reimbursement agreement, and to any person hired as a result of a
9 cost-reimbursement agreement. Members of the air pollution control
10 authority's board of directors shall be considered as state officers,
11 and employees of the air pollution control authority shall be
12 considered as state employees, for the sole purpose of applying the
13 restrictions of chapter 42.52 RCW to this section.

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

16 This chapter shall not be construed to limit or abridge the powers
17 and duties granted to a participating permit agency under the law that
18 authorizes or requires the agency to issue a permit for a project.
19 Each participating permit agency shall retain its authority to make all
20 decisions on all nonprocedural matters with regard to the respective
21 component permit that is within its scope of its responsibility
22 including, but not limited to, the determination of permit application
23 completeness, permit approval or approval with conditions, or permit
24 denial. The office may not substitute its judgment for that of a
25 participating permit agency on any such nonprocedural matters.

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