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**SUBSTITUTE SENATE BILL 5445**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Jacobsen, Morton and Rasmussen)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to cost-reimbursement agreements; and amending RCW  
2 43.30.490.

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

4 **Sec. 1.** RCW 43.30.490 and 2003 c 70 s 2 are each amended to read  
5 as follows:

6 (1) The department may enter into a written cost-reimbursement  
7 agreement with a permit or lease applicant or project proponent to  
8 recover from the applicant or proponent the reasonable costs incurred  
9 by the department in carrying out the requirements of this chapter, as  
10 well as the requirements of other relevant laws, as they relate to  
11 permit coordination, environmental review, application review,  
12 technical studies, ~~((and))~~ establishment of development units and  
13 approval or establishment of pooling agreements under chapter 78.52  
14 RCW, including necessary technical studies, permit or lease processing,  
15 and monitoring for permit compliance. The cost-reimbursement agreement  
16 shall identify the specific tasks, costs, and schedule for work to be  
17 conducted under the agreement. ~~((An applicant for a lease issued under~~  
18 ~~chapter 79.90 RCW may not enter into a cost reimbursement agreement~~  
19 ~~under this section for projects conducted under the lease.))~~

1 (2) The written cost-reimbursement agreement shall be negotiated  
2 with the permit or lease applicant or project proponent. Under the  
3 provisions of a cost-reimbursement agreement, funds from the applicant  
4 or proponent shall be used by the department to contract with an  
5 independent consultant to carry out the work covered by the cost-  
6 reimbursement agreement. The department may also use funds provided  
7 under a cost-reimbursement agreement to assign current staff to review  
8 the work of the consultant, to provide necessary technical assistance  
9 when an independent consultant with comparable technical skills is  
10 unavailable, and to recover reasonable and necessary direct and  
11 indirect costs that arise from processing the permit or lease. The  
12 department shall, in developing the agreement, ensure that final  
13 decisions that involve policy matters are made by the agency and not by  
14 the consultant. The department shall make an estimate of the number of  
15 permanent staff hours to process the permits or leases, and shall  
16 contract with consultants to replace the time and functions committed  
17 by these permanent staff to the project. The billing process shall  
18 provide for accurate time and cost accounting and may include a billing  
19 cycle that provides for progress payments. Use of cost-reimbursement  
20 agreements shall not reduce the current level of staff available to  
21 work on permits or leases not covered by cost-reimbursement agreements.  
22 The department may not use any funds under a cost-reimbursement  
23 agreement to replace or supplant existing funding. The restrictions of  
24 chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any  
25 person hired as a result of a cost-reimbursement agreement.

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

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