

2 **ESSB 6277 - H AMD 684 ADOPTED 3-8-00**

3 By Representative Linville

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** INTENT. It is the intent of the
8 legislature to allow applicants for environmental permits for complex
9 projects to compensate permitting agencies for providing environmental
10 review through the voluntary negotiation of cost-reimbursement
11 agreements with the permitting agency. It is the further intent of the
12 legislature that cost-reimbursement agreements for complex projects
13 free permitting agency resources to focus on the review of small
14 projects permits.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21A RCW
16 to read as follows:

17 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF ECOLOGY. (1)
18 The department may enter into a written cost-reimbursement agreement
19 with a permit applicant for a complex project to recover from the
20 applicant the reasonable costs incurred by the department in carrying
21 out the requirements of this chapter, as well as the requirements of
22 other relevant laws, as they relate to permit coordination,
23 environmental review, application review, technical studies, and permit
24 processing. The cost-reimbursement agreement shall identify the
25 specific tasks, costs, and schedule for work to be conducted under the
26 agreement. For purposes of this section, a complex project is a
27 project for which an environmental impact statement is required under
28 chapter 43.21C RCW.

29 (2) The written cost-reimbursement agreement shall be negotiated
30 with the permit applicant. Under the provisions of a cost-
31 reimbursement agreement, funds from the applicant shall be used by the
32 department to contract with an independent consultant to carry out the
33 work covered by the cost-reimbursement agreement. The department may
34 also use funds provided under a cost-reimbursement agreement to assign

1 current staff to review the work of the consultant, to provide
2 necessary technical assistance when an independent consultant with
3 comparable technical skills is unavailable, and to recover reasonable
4 and necessary direct and indirect costs that arise from processing the
5 permit. The department shall, in developing the agreement, ensure that
6 final decisions that involve policy matters are made by the agency and
7 not by the consultant. The department shall make an estimate of the
8 number of permanent staff hours to process the permits, and shall
9 contract with consultants to replace the time and functions committed
10 by these permanent staff to the project. The billing process shall
11 provide for accurate time and cost accounting and may include a billing
12 cycle that provides for progress payments. Use of cost-reimbursement
13 agreements shall not reduce the current level of staff available to
14 work on permits 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. The restrictions of chapter
17 42.52 RCW apply to any cost-reimbursement agreement, and to any person
18 hired as a result of a cost-reimbursement agreement.

19 (3) The department may not enter into any new cost-reimbursement
20 agreements on or after July 1, 2005. The department may continue to
21 administer any cost-reimbursement agreement which was entered into
22 before July 1, 2005, until the project is completed.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.30 RCW
24 to read as follows:

25 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF NATURAL
26 RESOURCES. (1) The department may enter into a written cost-
27 reimbursement agreement with a permit or lease applicant for a complex
28 project to recover from the applicant the reasonable costs incurred by
29 the department in carrying out the requirements of this chapter, as
30 well as the requirements of other relevant laws, as they relate to
31 permit coordination, environmental review, application review,
32 technical studies, and permit or lease processing. The cost-
33 reimbursement agreement shall identify the specific tasks, costs, and
34 schedule for work to be conducted under the agreement. For purposes of
35 this section, a complex project is a project for which an environmental
36 impact statement is required under chapter 43.21C RCW. An applicant
37 for a lease issued under chapter 79.90 RCW may not enter into a cost-

1 reimbursement agreement under this section for projects conducted under
2 the lease.

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

28 (3) The department may not enter into any new cost-reimbursement
29 agreements on or after July 1, 2005. The department may continue to
30 administer any cost-reimbursement agreement which was entered into
31 before July 1, 2005, until the project is completed.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.70 RCW
33 to read as follows:

34 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF HEALTH. (1) The
35 department may enter into a written cost-reimbursement agreement with
36 a permit applicant for a complex project to recover from the applicant
37 the reasonable costs incurred by the department in carrying out the
38 requirements of this chapter, as well as the requirements of other

1 relevant laws, as they relate to permit coordination, environmental
2 review, application review, technical studies, and permit processing.
3 The cost-reimbursement agreement shall identify the specific tasks,
4 costs, and schedule for work to be conducted under the agreement. For
5 purposes of this section, a complex project is a project for which an
6 environmental impact statement is required under chapter 43.21C RCW.

7 (2) The written cost-reimbursement agreement shall be negotiated
8 with the permit applicant. Under the provisions of a cost-
9 reimbursement agreement, funds from the applicant shall be used by the
10 department to contract with an independent consultant to carry out the
11 work covered by the cost-reimbursement agreement. The department may
12 also use funds provided under a cost-reimbursement agreement to assign
13 current staff to review the work of the consultant, to provide
14 necessary technical assistance when an independent consultant with
15 comparable technical skills is unavailable, and to recover reasonable
16 and necessary direct and indirect costs that arise from processing the
17 permit. The department shall, in developing the agreement, ensure that
18 final decisions that involve policy matters are made by the agency and
19 not by the consultant. The department shall make an estimate of the
20 number of permanent staff hours to process the permits, and shall
21 contract with consultants to replace the time and functions committed
22 by these permanent staff to the project. The billing process shall
23 provide for accurate time and cost accounting and may include a billing
24 cycle that provides for progress payments. Use of cost-reimbursement
25 agreements shall not reduce the current level of staff available to
26 work on permits not covered by cost-reimbursement agreements. The
27 department may not use any funds under a cost-reimbursement agreement
28 to replace or supplant existing funding. The restrictions of chapter
29 42.52 RCW apply to any cost-reimbursement agreement, and to any person
30 hired as a result of a cost-reimbursement agreement.

31 (3) The department may not enter into any new cost-reimbursement
32 agreements on or after July 1, 2005. The department may continue to
33 administer any cost-reimbursement agreement which was entered into
34 before July 1, 2005, until the project is completed.

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.300 RCW
36 to read as follows:

37 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF FISH AND
38 WILDLIFE. (1) The department may enter into a written cost-

1 reimbursement agreement with a permit applicant for a complex project
2 to recover from the applicant the reasonable costs incurred by the
3 department in carrying out the requirements of this chapter, as well as
4 the requirements of other relevant laws, as they relate to permit
5 coordination, environmental review, application review, technical
6 studies, and permit processing. The cost-reimbursement agreement shall
7 identify the specific tasks, costs, and schedule for work to be
8 conducted under the agreement. For purposes of this section, a complex
9 project is a project for which an environmental impact statement is
10 required under chapter 43.21C RCW.

11 (2) The written cost-reimbursement agreement shall be negotiated
12 with the permit applicant. Under the provisions of a cost-
13 reimbursement agreement, funds from the applicant shall be used by the
14 department to contract with an independent consultant to carry out the
15 work covered by the cost-reimbursement agreement. The department may
16 also use funds provided under a cost-reimbursement agreement to assign
17 current staff to review the work of the consultant, to provide
18 necessary technical assistance when an independent consultant with
19 comparable technical skills is unavailable, and to recover reasonable
20 and necessary direct and indirect costs that arise from processing the
21 permit. The department shall, in developing the agreement, ensure that
22 final decisions that involve policy matters are made by the agency and
23 not by the consultant. The department shall make an estimate of the
24 number of permanent staff hours to process the permits, and shall
25 contract with consultants to replace the time and functions committed
26 by these permanent staff to the project. The billing process shall
27 provide for accurate time and cost accounting and may include a billing
28 cycle that provides for progress payments. Use of cost-reimbursement
29 agreements shall not reduce the current level of staff available to
30 work on permits not covered by cost-reimbursement agreements. The
31 department may not use any funds under a cost-reimbursement agreement
32 to replace or supplant existing funding. The restrictions of chapter
33 42.52 RCW apply to any cost-reimbursement agreement, and to any person
34 hired as a result of a cost-reimbursement agreement.

35 (3) The department may not enter into any new cost-reimbursement
36 agreements on or after July 1, 2005. The department may continue to
37 administer any cost-reimbursement agreement which was entered into
38 before July 1, 2005, until the project is completed.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.94 RCW
2 to read as follows:

3 COST-REIMBURSEMENT AGREEMENT BY AN AIR POLLUTION CONTROL AUTHORITY.

4 (1) An authority may enter into a written cost-reimbursement agreement
5 with a permit applicant for a complex project to recover from the
6 applicant the reasonable costs incurred by the authority in carrying
7 out the requirements of this chapter, as well as the requirements of
8 other relevant laws, as they relate to permit coordination,
9 environmental review, application review, technical studies, and permit
10 processing. The cost-reimbursement agreement shall identify the
11 specific tasks, costs, and schedule for work to be conducted under the
12 agreement. For purposes of this section, a complex project is a
13 project for which an environmental impact statement is required under
14 chapter 43.21C RCW.

15 (2) The written cost-reimbursement agreement shall be negotiated
16 with the permit applicant. Under the provisions of a cost-
17 reimbursement agreement, funds from the applicant shall be used by the
18 air pollution control authority to contract with an independent
19 consultant to carry out the work covered by the cost-reimbursement
20 agreement. The air pollution control authority may also use funds
21 provided under a cost-reimbursement agreement to assign current staff
22 to review the work of the consultant, to provide necessary technical
23 assistance when an independent consultant with comparable technical
24 skills is unavailable, and to recover reasonable and necessary direct
25 and indirect costs that arise from processing the permit. The air
26 pollution control authority shall, in developing the agreement, ensure
27 that final decisions that involve policy matters are made by the agency
28 and not by the consultant. The air pollution control authority shall
29 make an estimate of the number of permanent staff hours to process the
30 permits, and shall contract with consultants to replace the time and
31 functions committed by these permanent staff to the project. The
32 billing process shall provide for accurate time and cost accounting and
33 may include a billing cycle that provides for progress payments. Use
34 of cost-reimbursement agreements shall not reduce the current level of
35 staff available to work on permits not covered by cost-reimbursement
36 agreements. The air pollution control authority may not use any funds
37 under a cost-reimbursement agreement to replace or supplant existing
38 funding. The provisions of chapter 42.52 RCW apply to any cost-
39 reimbursement agreement, and to any person hired as a result of a cost-

1 reimbursement agreement. Members of the air pollution control
2 authority's board of directors shall be considered as state officers,
3 and employees of the air pollution control authority shall be
4 considered as state employees, for the sole purpose of applying the
5 restrictions of chapter 42.52 RCW to this section.

6 (3) An air pollution control authority may not enter into any new
7 cost-reimbursement agreements on or after July 1, 2005. The department
8 may continue to administer any cost-reimbursement agreement which was
9 entered into before July 1, 2005, until the project is completed.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.03 RCW
11 to read as follows:

12 Any applicant for a new withdrawal or a change, transfer, or
13 amendment of a water right pending before the department, may initiate
14 a cost-reimbursement agreement with the department to provide expedited
15 review of the application. A cost-reimbursement agreement may only be
16 initiated under this section if the applicant agrees to pay for, or as
17 part of a cooperative effort agrees to pay for, the cost of processing
18 his or her application and all other applications from the same source
19 of supply which must be acted upon before the applicant's request
20 because they were filed prior to the date of when the applicant filed.
21 The department shall use the process established under section 2 of
22 this act for entering into cost-reimbursement agreements, except that
23 it is not necessary for an environmental impact statement to be filed
24 as a prerequisite for entering into a cost-reimbursement agreement
25 under this section.

26 NEW SECTION. **Sec. 8.** Captions used in this act are not any part
27 of the law.

28 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 immediately."

32 Correct the title.

EFFECT: Removes requirement for OFM to develop guidelines and
replaces it with language that specifies what must be identified in an

agreement. Removes section pertaining to processing water rights permits in Island County. Allows cost-reimbursement agreements for complex projects - which is defined as a project requiring an EIS. Limits the time for which new agreements can be negotiated at July 1, 2005. Leases under chapter 79.90 RCW are ineligible for these agreements. Requires the funds under an agreement to be used to hire independent consultants, but current staff may be used to review the work being done by the consultants and may be used to provide technical assistance if the available consultants don't have comparable technical skills. Adds nonsupplanting language. Prohibits the level of staff to work on other permits from being reduced. Allows the hiring of consultants to replace permanent staff diverted to work on permits covered by the agreements. Applies the restrictions of the Ethics in Public Service chapter of law to cost-reimbursement agreements.

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