

House Bill Analysis

ESSB 6277

HOUSE AGRICULTURE AND ECOLOGY COMMITTEE

February

17, 2000

BACKGROUND:

Cost-reimbursement agreements are a mechanism by which an applicant for a state or local government permit or lease can provide funds for the staff necessary to process the required application in a timely manner. A complex project may cause delays in processing the complex project's application, and may also result in delays in processing smaller project applications.

The Legislature has authorized agencies which enter into environmental excellence program agreements to collect a fee to recover the costs of processing proposals for such agreements. Under the coordinated permit process of the Permit Assistance Center, a coordinating permit agency may also enter into an agreement with an applicant to recover the costs of performing the coordinated permit services. The authority to enter into such agreements with regards to the coordinated permit process expires in June 2000.

SUMMARY:

Voluntary cost-reimbursement agreements may be negotiated between applicants for permits and the Departments of Ecology, Natural Resources, Health, and Fish and Wildlife, and local air pollution control authorities. The Department of Natural Resources may also use these agreements for lease applications.

Under a cost-reimbursement agreement, the applicant pays the reasonable costs incurred by the agency or local pollution control authority for permit coordination, environmental review, application review, technical studies, permit processing, and carrying out the requirements of other relevant laws. The agency or local pollution control authority must assign work to current staff in order to carry out the work covered by the agreement, and funds provided by the applicant must be used to pay for temporary staff or technical consultants who are authorized to perform functions assigned to staff responsible for writing the permit. The billing process for a cost-reimbursement agreement must provide for accurate time and cost accounting, and may allow for progress payments. An agency may not enter into a cost-reimbursement agreement until the Office of Financial Management (OFM) has developed guidelines for the use of such agreements.

The OFM is directed to develop guidelines in collaboration with the Departments of Ecology, Natural Resources, Health, and Fish and Wildlife, and local air pollution control authorities, to ensure consistency in the agencies' use and administration of cost-reimbursement agreements and to comply with legislative intent. The guidelines must include measures to ensure the impartiality of agency decision-making on applications subject to review under these agreements; strategies to promote the public's trust in permitting and leasing processes, including avoiding any conflict of interest and ensuring the appearance of fairness; measures to ensure that these agreements will not impede the consideration of permit or lease applications for projects not covered by these agreements; and practices to ensure consistent billing and accounting. The guidelines must be submitted to the Legislature by June 30, 2000.

Public water supply systems located in counties completely surrounded by water, which withdraw ground water from a federally designated sole source aquifer, may enter into a cost-reimbursement agreement with the Department of Ecology to provide expedited review of any applications to withdraw water, or change or transfer in use of water that were pending before the department before January 1, 2000. If a request for a cost-reimbursement agreement is made, the department must negotiate in good faith with the applicants to provide for expedited review. The department must follow the guidelines developed by OFM in collaboration with other agencies. The department must make decisions on these applications by June 30, 2002.

The Joint Legislative Audit and Review Committee (JLARC) is directed to review the use and administration of cost-reimbursement agreements, and make annual reports to the Legislature prior to the 2001, 2002, and 2003 regular legislative sessions regarding these agreements. The JLARC must issue a final report to the Legislature regarding these agreements by December 15, 2003.

The reports provided by the JLARC must address the number and nature of projects subject to cost-reimbursement agreements; the length of time between when an application is submitted and when the permit or lease decision is made, for both projects which are subject to cost-reimbursement agreements and those that are not subject to such agreements; how agencies have managed staffing under cost-reimbursement agreements and whether agency expenses are covered by the reimbursed costs; whether applicants who do not participate in such agreements are displaced in the permit or leasing process; and the effectiveness of the guidelines developed by OFM in collaboration with other agencies. In examining the effectiveness of the guidelines, the JLARC must particularly focus on how conflicts of interest are avoided and the appearance of fairness is ensured. The JLARC must also include any recommendations for improving cost-reimbursement agreements in its reports to the Legislature.

Appropriation: None

Fiscal Note: Requested

Effective Date: The bill contains an emergency clause and takes effect immediately.