
ENGROSSED SUBSTITUTE SENATE BILL 6277

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Environmental Quality & Water Resources (originally sponsored by Senators B. Sheldon, Swecker, Jacobsen, Franklin, Morton, Costa, Fraser, Eide, Spanel, Thibaudeau and Kohl-Welles)

Read first time 01/31/2000.

1 AN ACT Relating to authorizing cost-reimbursement agreements for
2 leases and environmental permits; adding a new section to chapter
3 43.21A RCW; adding a new section to chapter 43.30 RCW; adding a new
4 section to chapter 43.70 RCW; adding a new section to chapter 43.300
5 RCW; adding a new section to chapter 70.94 RCW; adding a new section to
6 chapter 90.44 RCW; creating new sections; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** INTENT. It is the intent of the legislature
9 that:

10 (1) Applicants for leases and environmental permits be allowed to
11 negotiate voluntary cost-reimbursement agreements through which the
12 applicants would receive expedited environmental review from the
13 permitting or leasing agency;

14 (2) Cost-reimbursement agreements free permitting and leasing
15 agency resources to focus on and expedite the review of all projects;

16 (3) By authorizing cost-reimbursement agreements, measures are
17 taken by the agencies to promote the public's trust and confidence in
18 the underlying permit process, including providing consolidated,
19 effective, and easier opportunities for members of the public to

1 receive information and present their views about proposed projects;
2 and

3 (4) The permit process results in transparent and impartial
4 decision making as a result of such agreements.

5 NEW SECTION. **Sec. 2.** GUIDELINES FOR COST-REIMBURSEMENT
6 AGREEMENTS. (1) The office of financial management, in collaboration
7 with the departments of ecology, natural resources, fish and wildlife,
8 and health, and local air pollution control authorities shall develop
9 guidelines to ensure consistency in the agencies' use and
10 administration of cost-reimbursement agreements and to meet the intent
11 of this act. The office of financial management shall be lead agency
12 in developing the guidelines and by June 30, 2000, shall submit final
13 guidelines to the legislature.

14 (2) The guidelines shall include, but are not limited to:

15 (a) Measures to ensure the impartiality of agency decision making
16 on applications subject to review under cost-reimbursement agreements;

17 (b) Strategies to promote the public's trust and confidence in
18 permitting and leasing processes including avoiding any conflict of
19 interest and ensuring the appearance of fairness;

20 (c) Measures to ensure that execution of cost-reimbursement
21 agreements will not impede the consideration of permit or lease
22 applications for projects for which no cost-reimbursement agreements
23 were made; and

24 (d) Practices to ensure consistent billing and accounting.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21A RCW
26 to read as follows:

27 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF ECOLOGY. (1) At
28 the request of a permit applicant, the department may enter into a
29 voluntary written cost-reimbursement agreement with the permit
30 applicant to recover from the applicant the reasonable costs incurred
31 by the department in carrying out the requirements of this chapter, as
32 well as the requirements of other relevant laws, as they relate to
33 permit coordination, environmental review, application review,
34 technical studies, and permit processing.

35 (2) Under the provisions of a cost-reimbursement agreement, the
36 department shall assign work to current staff in order to carry out the
37 work covered by the cost-reimbursement agreement. Funds from the

1 applicant shall be used to pay for temporary staff or technical
2 consultants otherwise authorized to perform functions assigned to
3 agency staff responsible for writing the permit. The billing process
4 shall provide for accurate time and cost accounting and may include a
5 billing cycle that provides for progress payments. The department
6 shall comply with the guidelines required by section 2 of this act and
7 shall not enter into a cost-reimbursement agreement until the
8 guidelines have been finalized.

9 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.30 RCW
10 to read as follows:

11 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF NATURAL
12 RESOURCES. (1) At the request of a permit or lease applicant, the
13 department may enter into a voluntary written cost-reimbursement
14 agreement with the permit or lease applicant to recover from the
15 applicant the reasonable costs incurred by the department in carrying
16 out the requirements of this chapter, as well as the requirements of
17 other relevant laws, as they relate to permit coordination,
18 environmental review, application review, technical studies, and permit
19 or lease processing.

20 (2) Under the provisions of a cost-reimbursement agreement, the
21 department shall assign work to current staff in order to carry out the
22 work covered by the cost-reimbursement agreement. Funds from the
23 applicant shall be used to pay for temporary staff or technical
24 consultants otherwise authorized to perform functions assigned to
25 agency staff responsible for writing the permit or lease. The billing
26 process shall provide for accurate time and cost accounting and may
27 include a billing cycle that provides for progress payments. The
28 department shall comply with the guidelines required by section 2 of
29 this act and shall not enter into a cost-reimbursement agreement until
30 the guidelines have been finalized.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.70 RCW
32 to read as follows:

33 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF HEALTH. (1) At
34 the request of a permit or lease applicant, the department may enter
35 into a voluntary written cost-reimbursement agreement with the permit
36 applicant to recover from the applicant the reasonable costs incurred
37 by the department in carrying out the requirements of this chapter, as

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

4 (2) Under the provisions of a cost-reimbursement agreement, the
5 department shall assign work to current staff in order to carry out the
6 work covered by the cost-reimbursement agreement. Funds from the
7 applicant shall be used to pay for temporary staff or technical
8 consultants otherwise authorized to perform functions assigned to
9 agency staff responsible for writing the permit. The billing process
10 shall provide for accurate time and cost accounting and may include a
11 billing cycle that provides for progress payments. The department
12 shall comply with the guidelines required by section 2 of this act and
13 shall not enter into a cost-reimbursement agreement until the
14 guidelines have been finalized.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.300 RCW
16 to read as follows:

17 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF FISH AND
18 WILDLIFE. (1) At the request of a permit applicant, the department may
19 enter into a voluntary written cost-reimbursement agreement with the
20 permit applicant to recover from the applicant the reasonable costs
21 incurred by the department in carrying out the requirements of this
22 chapter, as well as the requirements of other relevant laws, as they
23 relate to permit coordination, environmental review, application
24 review, technical studies, and permit processing.

25 (2) Under the provisions of a cost-reimbursement agreement, the
26 department shall assign work to current staff in order to carry out the
27 work covered by the cost-reimbursement agreement. Funds from the
28 applicant shall be used to pay for temporary staff or technical
29 consultants otherwise authorized to perform functions assigned to
30 agency staff responsible for writing the permit. The billing process
31 shall provide for accurate time and cost accounting and may include a
32 billing cycle that provides for progress payments. The department
33 shall comply with the guidelines required by section 2 of this act and
34 shall not enter into a cost-reimbursement agreement until the
35 guidelines have been finalized.

36 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.94 RCW
37 to read as follows:

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

2 (1) At the request of a permit applicant, an authority may enter into
3 a voluntary written cost-reimbursement agreement with the permit
4 applicant to recover from the applicant the reasonable costs incurred
5 by the authority in carrying out the requirements of this chapter, as
6 well as the requirements of other relevant laws, as they relate to
7 permit coordination, environmental review, application review,
8 technical studies, and permit processing.

9 (2) Under the provisions of a cost-reimbursement agreement, the
10 authority shall assign work to current staff in order to carry out the
11 work covered by the cost-reimbursement agreement. Funds from the
12 applicant shall be used to pay for temporary staff or technical
13 consultants otherwise authorized to perform functions assigned to
14 agency staff responsible for writing the permit. The billing process
15 shall provide for accurate time and cost accounting and may include a
16 billing cycle that provides for progress payments. The authority shall
17 comply with the guidelines required by section 2 of this act and shall
18 not enter into a cost-reimbursement agreement until the guidelines have
19 been finalized.

20 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.44 RCW
21 to read as follows:

22 Any one or more public water supply systems in counties surrounded
23 by water with existing or proposed ground water withdrawals from a
24 federally designated sole source aquifer, with applications for a new
25 withdrawal or a change or transfer pending before the department on or
26 before January 1, 2000, may initiate a cost-reimbursement agreement
27 with the department to provide expedited review of the applications.
28 If a request for a cost-reimbursement agreement is made, the department
29 shall negotiate in good faith with the group of public water supply
30 system applicants to provide expedited review for the applications.
31 The department shall be guided by sections 1 through 3 of this act in
32 negotiating a cost-reimbursement agreement. The department shall
33 render decisions on the applications subject to the provisions of this
34 section by June 30, 2002.

35 NEW SECTION. **Sec. 9.** EVALUATION OF COST-REIMBURSEMENT AGREEMENTS.

36 (1) The joint legislative audit and review committee shall review the
37 use and administration of cost-reimbursement agreements, provide annual

1 reports to the legislature prior to the 2001, 2002, and 2003 regular
2 legislative sessions, and a final report to the legislature by December
3 15, 2003. Topics addressed in the reports shall include but not be
4 limited to:

5 (a) The number and nature of projects subject to cost-reimbursement
6 agreements;

7 (b) The length of time between submission of an application and the
8 permit or lease decision for both projects subject to cost-
9 reimbursement agreements and those not subject to the agreements;

10 (c) How agencies have managed staffing resources under cost-
11 reimbursement agreements and whether reimbursed costs have covered
12 agency expenses;

13 (d) Whether applicants who choose not to negotiate cost-
14 reimbursement agreements have been displaced in the permit or leasing
15 process; and

16 (e) The effectiveness of the guidelines developed under section 2
17 of this act, in particular relating to the avoidance of conflicts of
18 interest and ensuring the appearance of fairness.

19 (2) The joint legislative audit and review committee shall also
20 make recommendations for improving cost-reimbursement agreements to
21 achieve the intent of this act.

22 NEW SECTION. **Sec. 10.** Captions used in this act are not any part
23 of the law.

24 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 immediately.

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