

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6277

Chapter 251, Laws of 2000

56th Legislature
2000 Regular Session

COST-REIMBURSEMENT AGREEMENTS

EFFECTIVE DATE: 3/31/00

Passed by the Senate March 9, 2000
YEAS 31 NAYS 16

BRAD OWEN
President of the Senate

Passed by the House March 8, 2000
YEAS 91 NAYS 7

CLYDE BALLARD
Speaker of the
House of Representatives

FRANK CHOPP
Speaker of the
House of Representatives

Approved March 31, 2000

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6277** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

March 31, 2000 - 3:53 p.m.

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE SENATE BILL 6277

AS AMENDED BY THE HOUSE

Passed Legislature - 2000 Regular Session

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 90.03 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 to allow applicants for environmental permits for complex projects to
10 compensate permitting agencies for providing environmental review
11 through the voluntary negotiation of cost-reimbursement agreements with
12 the permitting agency. It is the further intent of the legislature
13 that cost-reimbursement agreements for complex projects free permitting
14 agency resources to focus on the review of small 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

1 with a permit applicant for a complex project to recover from the
2 applicant the reasonable costs incurred by the department in carrying
3 out the requirements of this chapter, as well as the requirements of
4 other relevant laws, as they relate to permit coordination,
5 environmental review, application review, technical studies, and permit
6 processing. The cost-reimbursement agreement shall identify the
7 specific tasks, costs, and schedule for work to be conducted under the
8 agreement. For purposes of this section, a complex project is a
9 project for which an environmental impact statement is required under
10 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. 3.** A new section is added to chapter 43.30 RCW
2 to read as follows:

3 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF NATURAL
4 RESOURCES. (1) The department may enter into a written cost-
5 reimbursement agreement with a permit or lease applicant for a complex
6 project to recover from the applicant the reasonable costs incurred by
7 the department in carrying out the requirements of this chapter, as
8 well as the requirements of other relevant laws, as they relate to
9 permit coordination, environmental review, application review,
10 technical studies, and permit or lease processing. The cost-
11 reimbursement agreement shall identify the specific tasks, costs, and
12 schedule for work to be conducted under the agreement. For purposes of
13 this section, a complex project is a project for which an environmental
14 impact statement is required under chapter 43.21C RCW. An applicant
15 for a lease issued under chapter 79.90 RCW may not enter into a cost-
16 reimbursement agreement under this section for projects conducted under
17 the lease.

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

1 The restrictions of chapter 42.52 RCW apply to any cost-reimbursement
2 agreement, and to any person hired as a result of a cost-reimbursement
3 agreement.

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

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

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

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

1 agreements shall not reduce the current level of staff available to
2 work on permits not covered by cost-reimbursement agreements. The
3 department may not use any funds under a cost-reimbursement agreement
4 to replace or supplant existing funding. The restrictions of chapter
5 42.52 RCW apply to any cost-reimbursement agreement, and to any person
6 hired as a result of a cost-reimbursement agreement.

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

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

13 COST-REIMBURSEMENT AGREEMENT BY THE DEPARTMENT OF FISH AND
14 WILDLIFE. (1) The department may enter into a written cost-
15 reimbursement agreement with a permit applicant for a complex project
16 to recover from the applicant 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. The cost-reimbursement agreement shall
21 identify the specific tasks, costs, and schedule for work to be
22 conducted under the agreement. For purposes of this section, a complex
23 project is a project for which an environmental impact statement is
24 required under chapter 43.21C RCW.

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

1 contract with consultants to replace the time and functions committed
2 by these permanent staff to the project. The billing process shall
3 provide for accurate time and cost accounting and may include a billing
4 cycle that provides for progress payments. Use of cost-reimbursement
5 agreements shall not reduce the current level of staff available to
6 work on permits not covered by cost-reimbursement agreements. The
7 department may not use any funds under a cost-reimbursement agreement
8 to replace or supplant existing funding. The restrictions of chapter
9 42.52 RCW apply to any cost-reimbursement agreement, and to any person
10 hired as a result of a cost-reimbursement agreement.

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

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

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

18 (1) An authority 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 authority 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 air pollution control authority to contract with an independent
33 consultant to carry out the work covered by the cost-reimbursement
34 agreement. The air pollution control authority may also use funds
35 provided under a cost-reimbursement agreement to assign current staff
36 to review the work of the consultant, to provide necessary technical
37 assistance when an independent consultant with comparable technical
38 skills is unavailable, and to recover reasonable and necessary direct

1 and indirect costs that arise from processing the permit. The air
2 pollution control authority shall, in developing the agreement, ensure
3 that final decisions that involve policy matters are made by the agency
4 and not by the consultant. The air pollution control authority shall
5 make an estimate of the number of permanent staff hours to process the
6 permits, and shall contract with consultants to replace the time and
7 functions committed by these permanent staff to the project. The
8 billing process shall provide for accurate time and cost accounting and
9 may include a billing cycle that provides for progress payments. Use
10 of cost-reimbursement agreements shall not reduce the current level of
11 staff available to work on permits not covered by cost-reimbursement
12 agreements. The air pollution control authority may not use any funds
13 under a cost-reimbursement agreement to replace or supplant existing
14 funding. The provisions of chapter 42.52 RCW apply to any cost-
15 reimbursement agreement, and to any person hired as a result of a cost-
16 reimbursement agreement. Members of the air pollution control
17 authority's board of directors shall be considered as state officers,
18 and employees of the air pollution control authority shall be
19 considered as state employees, for the sole purpose of applying the
20 restrictions of chapter 42.52 RCW to this section.

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

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

27 Any applicant for a new withdrawal or a change, transfer, or
28 amendment of a water right pending before the department, may initiate
29 a cost-reimbursement agreement with the department to provide expedited
30 review of the application. A cost-reimbursement agreement may only be
31 initiated under this section if the applicant agrees to pay for, or as
32 part of a cooperative effort agrees to pay for, the cost of processing
33 his or her application and all other applications from the same source
34 of supply which must be acted upon before the applicant's request
35 because they were filed prior to the date of when the applicant filed.
36 The department shall use the process established under section 2 of
37 this act for entering into cost-reimbursement agreements, except that
38 it is not necessary for an environmental impact statement to be filed

1 as a prerequisite for entering into a cost-reimbursement agreement
2 under this section.

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

5 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

Passed the Senate March 9, 2000.

Passed the House March 8, 2000.

Approved by the Governor March 31, 2000.

Filed in Office of Secretary of State March 31, 2000.