

SHB 2107 - S COMM AMD

By Committee on Water, Energy & Telecommunications

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.48.037 and 1991 c 200 s 1102 are each amended to
4 read as follows:

5 (1) The department, with the assistance of the attorney general,
6 (~~is authorized to~~) may bring any appropriate action at law or in
7 equity, including action for injunctive relief, in the name of the
8 people of the state of Washington as may be necessary to carry out the
9 provisions of this chapter or chapter 90.56 RCW.

10 (2) The department, with the assistance of the attorney general,
11 may consider the option of an innovative settlement agreement in lieu
12 of appeal for all violators of this chapter or chapter 90.56 RCW except
13 in cases of:

14 (a) Criminal violations;

15 (b) Cases where the violation is not corrected; or

16 (c) Violators who have unpaid penalties under this chapter or
17 chapter 90.56 RCW.

18 NEW SECTION. Sec. 2. A new section is added to chapter 90.48 RCW
19 to read as follows:

20 (1) The department may consider an innovative settlement agreement
21 in lieu of appeal prepared by violators of this chapter or chapter
22 90.56 RCW who choose not to appeal the penalty. Nothing in this
23 section restricts the department's ability to enter into innovative
24 settlement agreements after the appeals process has begun.

25 (2) An innovative settlement agreement in lieu of appeal must meet
26 the following standards:

27 (a) The request to proceed must be made within thirty days after
28 the date of receipt of the notice imposing the penalty, or thirty days

1 after the date of receipt of the notice of disposition of the
2 application for relief from penalty;
3 (b) The agreement must be agreed upon with the department within
4 ninety days after beginning the settlement process, however:
5 (i) The ninety-day timeline may be extended to one hundred twenty
6 days by mutual agreement;
7 (ii) If the agreement is not agreed upon within one hundred twenty
8 days, the penalty becomes due and payable;
9 (c) The agreement must be completed within two years;
10 (d) The agreement cannot be for projects currently required under
11 any federal, state, or local law or regulation;
12 (e) The agreement must be within the same watershed where the
13 violation took place;
14 (f) The agreement must not directly benefit the violator
15 individually;
16 (g) The total monetary or in-kind payments must be equal to the
17 assessed penalty;
18 (h) Twenty percent of the assessed penalty must be deposited into
19 the coastal protection fund, created in RCW 90.48.390;
20 (i) All publicity occurring as a result of this project must cite
21 the penalty assessed and the resulting innovative settlement agreement;
22 and
23 (j) No portion of the penalty money, in-kind contributions, or
24 project may be tax deductible as a charitable contribution."

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25 On page 1, line 1 of the title, after "agreements;" strike the
26 remainder of the title and insert "amending RCW 90.48.037; and adding
27 a new section to chapter 90.48 RCW."

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