

SENATE BILL REPORT

SB 5445

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 27, 2007

Title: An act relating to cost-reimbursement agreements under chapter 78.52 RCW.

Brief Description: Authorizing oil and gas regulatory cost-reimbursements.

Sponsors: Senators Jacobsen, Morton and Rasmussen.

Brief History:

Committee Activity: Water, Energy & Telecommunications: 1/26/07, 2/27/07 [DPS].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 5445 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Holmquist, Marr, Morton, Oemig, Pridemore and Regala.

Staff: William Bridges (786-7424)

Background: The Department of Natural Resources (Department) issues permits for oil and gas exploration in Washington. The cost of a permit is set in statute and ranges from \$250 to \$1,000 depending on the depth of the drilling. Revenues from permits go into the State General Fund.

The Department may seek cost reimbursements for pre-drilling regulatory activities, such as the preparation of environmental impact statements. But the Department lacks such authority for post-discovery activities, such as engineering analysis for reservoir size; locating and spacing of wells and operations; and reclamation and clean up of all well sites. Consequently, the Department's post-discovery regulatory activities have been funded out the State General Fund, which were adequate when annual drilling applications numbered one or two a year.

Renewed exploration and drilling over the past year has increased. The Department reports that it is currently processing 14 applications for drilling permits, with at least five more expected before the end of the fiscal year. Three wells are actively drilling, and another five to ten are expected to be drilled or drilling before the end of fiscal year 2007. Lacking the authority for post-discovery cost reimbursements, and without adequate state general fund monies, the Department asserts it can no longer adequately regulate post-discovery drilling activities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Mindful of the increase in drilling applications, in 2006 the Legislature directed the Department to study and to make recommendations improving the existing legislation affecting the oil and natural gas industry. The study results were submitted to the Legislature in January 2007. Among the recommendations was one authorizing cost-reimbursement agreements for all the stages of oil and gas drilling, from exploration through production.

Summary of Bill: Cost-Reimbursement Agreements: In order to expedite and facilitate the permitting and compliance processes for oil and gas development, the Department may negotiate and enter into cost-reimbursement agreements with applicants, permit holders, or project operators. The agreements may be used to recover the Department's reasonable costs incurred in carrying out the regulatory requirements related to oil and gas development, such as permit coordination and orders issued by the state oil and gas supervisor.

Terms and Conditions of Cost-Reimbursement Agreements: Applicants must request cost-reimbursement agreements. The agreements must be written, and they must identify the specific tasks, costs, and schedule for work to be conducted under the agreement. The Department must use any funds required by the agreements to contract with third-parties to carry out the work specified in the agreements. The state ethics laws apply to the agreements and to persons hired as a result of the agreements.

Departmental Oversight: The Department must ensure that it reviews and oversees the work performed by third parties. Oversight activities must be recovered through application fees and not through cost-reimbursement agreements.

Interim Measure: Cost-reimbursement agreements are considered an interim measure until oil and gas development activities necessitate additional Department staffing resources.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Water, Energy & Telecommunications): The creation of a new cost-reimbursement section in chapter 78.52 RCW is removed and replaced with an amended section of the current law regarding cost-reimbursement agreements in RCW 43.30.490. The Department of Natural Resources may enter into cost reimbursement agreements for activities needed to establish oil and gas development units and pooling agreements, including monitoring for permit compliance. The current prohibition that the Department may not enter into cost reimbursement agreements after July 1, 2007, is removed.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The Department of Natural Resources has no funding to administer the oil and gas development program. This was not a problem in the past because there was little drilling activity. But now drilling activity has increased. Shell Oil participated in the interim group that recommended this cost-reimbursement approach, which is similar to other programs.

Persons Testifying: PRO: Steve Gano, Shell Oil; Dave Norman, Department of Natural Resources.