

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5122

Chapter 94, Laws of 2007

60th Legislature
2007 Regular Session

REGULATORY ASSISTANCE PROGRAMS

EFFECTIVE DATE: 07/22/07 - Except section 15, which takes effect
4/18/07.

Passed by the Senate March 12, 2007
YEAS 49 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 5, 2007
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5122** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved April 18, 2007, 10:13 a.m.

FILED

April 18, 2007

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5122

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Rockefeller and Swecker; by request of Office of Financial Management)

READ FIRST TIME 02/22/07.

1 AN ACT Relating to preserving the current regulatory assistance
2 program with cost reimbursement changes; amending RCW 43.42.005,
3 43.42.010, 43.42.020, 43.42.030, 43.42.040, 43.42.050, 43.42.060,
4 43.42.070, 43.42.080, 43.21A.690, 43.30.490, 43.70.630, 43.300.080,
5 70.94.085, 43.131.401, and 43.131.402; creating a new section;
6 decodifying RCW 43.42.905; and declaring an emergency.

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

8 **Sec. 1.** RCW 43.42.005 and 2003 c 71 s 1 are each amended to read
9 as follows:

10 (1) The legislature finds that the health and safety of its
11 citizens, natural resources, and the environment are vital interests of
12 the state that must be protected to preserve the state's quality of
13 life. The legislature also finds that the state's economic well-being
14 is a vital interest that depends upon the development of fair,
15 accessible, and coordinated permitting and regulatory (~~processes~~)
16 requirements that ensure that the state not only protects public health
17 and safety and natural resources but also encourages appropriate
18 activities that stimulate growth and development. The legislature

1 further finds that Washington's permitting and regulatory programs have
2 established strict standards to protect public health and safety and
3 the environment.

4 (2) The legislature also finds that, as the number of environmental
5 and land use laws and requirements have grown in Washington, so have
6 the number of permits required of business and government. The
7 increasing number of (~~individual~~) permits and (~~permit~~) permitting
8 agencies has generated the potential for conflict, overlap, and
9 duplication among (~~various~~) state, local, and federal (~~permits.~~
10 ~~Lack of coordination in the processing of project applications may~~
11 ~~cause costly delays and frustration to applicants~~) permitting and
12 regulatory requirements.

13 (3) The legislature further finds that not all project
14 (~~applicants~~) proponents require the same type of assistance.
15 (~~Applicants~~) Proponents with small projects may merely need
16 information (~~about local and state permits~~) and assistance in
17 (~~applying for those permits~~) starting the permitting and application
18 process, while intermediate-sized projects may require more of a
19 facilitated (~~permit~~) and periodically assisted permitting process,
20 and large complex projects may need extensive and more continuous
21 coordination among local, state, and federal agencies and tribal
22 governments.

23 (4) The legislature further finds that persons doing business in
24 Washington state should have access to clear and appropriate
25 information regarding (~~state~~) regulations, permit requirements, and
26 agency rule-making processes.

27 (5) The legislature, therefore, finds that a range of assistance
28 and coordination options should be available to project (~~applicants~~)
29 proponents from a state office independent of any local, state, or
30 federal permit agency. The legislature finds that citizens,
31 businesses, and project (~~applicants~~) proponents should be provided
32 with:

33 (a) A reliable and consolidated source of information concerning
34 federal, state, and local environmental and land use laws and
35 procedures that may apply to any given project;

36 (b) Facilitated interagency forums for discussion of significant
37 issues related to the multiple permitting processes if needed for some
38 project (~~applicants~~) proponents; and

1 (c) Active coordination of all applicable regulatory and land use
2 permitting procedures if needed for some project (~~(applicants)~~)
3 proponents.

4 (6) The legislature declares that the purpose of this chapter is to
5 (~~(transfer the existing permit assistance center in the department of~~
6 ~~ecology to a new office of permit assistance in the office of financial~~
7 ~~management to)~~):

8 (a) Assure that citizens, businesses, and project (~~(applicants)~~)
9 proponents will continue to be provided with vital information
10 regarding environmental and land use laws and with assistance in
11 complying with environmental and land use laws to promote understanding
12 of these laws and to protect public health and safety and the
13 environment;

14 (b) Ensure that facilitation of project permit decisions by permit
15 agencies promotes both process efficiency and environmental protection;

16 (c) Allow for coordination of permit processing for large projects
17 upon project (~~(applicants')~~) proponents' request and at project
18 (~~(applicants')~~) proponents' expense to promote efficiency, ensure
19 certainty, and avoid conflicts among permit agencies; and

20 (d) Provide these services through an office independent of any
21 permit agency to ensure that any potential or perceived conflicts of
22 interest related to providing these services or making permit decisions
23 can be avoided.

24 (7) The legislature also declares that the purpose of this chapter
25 is to provide citizens of the state with access to information
26 regarding state regulations, permit requirements, and agency rule-
27 making processes in Washington state.

28 (8) The legislature intends that establishing an office of
29 regulatory assistance will provide these services without abrogating or
30 limiting the authority of any (~~(permit)~~) agency to make decisions on
31 permits and regulatory requirements that it (~~(issues)~~) requires or any
32 rule-making agency to make decisions on regulations. The legislature
33 therefore declares that the office of regulatory assistance shall have
34 authority to provide these services but shall not have any authority to
35 make decisions on permits.

36 **Sec. 2.** RCW 43.42.010 and 2003 c 71 s 2 are each amended to read
37 as follows:

1 (1) The office of regulatory assistance is created in the office of
2 financial management and shall be administered by the office of the
3 governor to assist citizens, businesses, and project ~~((applicants))~~
4 proponents.

5 (2) The office shall:

6 (a) Maintain and furnish information as provided in RCW 43.42.040;

7 (b) Furnish facilitation as provided in RCW 43.42.050;

8 (c) Furnish coordination as provided in RCW 43.42.060;

9 (d) Coordinate cost reimbursement as provided in RCW 43.42.070;

10 (e) Work with ~~((state))~~ governmental agencies ~~((and—local~~
11 ~~governments))~~ to continue to develop a range of ~~((permit))~~ permitting
12 and regulatory assistance options for project ~~((applicants))~~
13 proponents;

14 ~~((f))~~ ~~((Review initiatives developed by the transportation permit~~
15 ~~efficiency and accountability committee established in chapter 47.06C~~
16 ~~RCW and determine if any would be beneficial if implemented for other~~
17 ~~types of projects;~~

18 ~~((g))~~ Work to develop informal processes for dispute resolution
19 between agencies and permit ~~((applicants))~~ proponents;

20 ~~((h))~~ (g) Conduct customer surveys to evaluate its effectiveness;
21 and

22 ~~((i))~~ (h) Provide the following ~~((biennial))~~ reports by June 1,
23 2008, and biennially thereafter, to the governor and the appropriate
24 committees of the legislature:

25 (i) A performance report, based on the customer surveys required in
26 ~~((h))~~ (g) of this subsection;

27 (ii) A report on any ~~((statutory or regulatory))~~ conflicts
28 identified by the office in the course of its duties ~~((that arise))~~
29 arising from differing ~~((legal))~~ statutory or regulatory authorities
30 ~~((and)),~~ roles and missions of agencies, timing and sequencing of
31 permitting and procedural requirements, or otherwise, and how these
32 were resolved~~((— The report may include recommendations to the~~
33 ~~legislature and to agencies));~~ and

34 (iii) A report regarding negotiation and implementation of
35 voluntary cost-reimbursement agreements and use of outside independent
36 consultants under RCW 43.42.070, including the nature and amount of
37 work performed and implementation of requirements relating to costs.

1 (3) (~~A director of the office shall be hired no later than June 1,~~
2 ~~2003.~~

3 (~~4~~)) The office shall (~~give priority to furnishing assistance to~~
4 ~~small projects when expending general fund moneys allocated to it~~)
5 ensure the equitable delivery and provision of assistance services,
6 regardless of project type, scale, fund source, or assistance request.

7 **Sec. 3.** RCW 43.42.020 and 2002 c 153 s 3 are each amended to read
8 as follows:

9 (1) The office shall operate on the principle that citizens of the
10 state of Washington should receive the following information regarding
11 permits:

12 (a) A date and time for a decision on a permit or regulatory
13 requirement;

14 (b) The information required for an agency to make a decision on a
15 permit or regulatory requirement, recognizing that changes in the
16 project or other circumstances may change the information required; and

17 (c) An estimate of the maximum amount of costs in fees, studies, or
18 public processes that will be incurred by the project (~~applicant~~)
19 proponent.

20 (2) This section does not create an independent cause of action,
21 affect any existing cause of action, or establish time limits for
22 purposes of RCW 64.40.020.

23 **Sec. 4.** RCW 43.42.030 and 2003 c 71 s 3 are each amended to read
24 as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

27 (1) "Office" means the office of regulatory assistance in the
28 office of financial management established in RCW 43.42.010.

29 (2) "Permit" means any permit, certificate, use authorization, or
30 other form of governmental review or approval required in order to
31 construct, expand, or operate a project in the state of Washington.

32 (3) "Permit agency" means any state (~~or~~), local, or federal
33 agency authorized by law to issue permits.

34 (4) "Project" means any activity, the conduct of which requires a
35 permit or permits from one or more permit agencies.

1 (5) "Project ((applicant)) proponent" means a citizen, business, or
2 any entity applying for or seeking a permit or permits in the state of
3 Washington.

4 **Sec. 5.** RCW 43.42.040 and 2003 c 71 s 4 are each amended to read
5 as follows:

6 (1) The office shall assist citizens, businesses, and project
7 ((applicants)) proponents by maintaining and furnishing information,
8 including, but not limited to:

9 (a) To the extent possible, compiling and periodically updating one
10 or more handbooks containing lists and explanations of permit laws,
11 including all relevant local, state, federal, and tribal laws. In
12 providing this information, the office shall seek the cooperation of
13 relevant local, state, and federal agencies and tribal governments;

14 (b) Establishing and providing notice of a point of contact for
15 obtaining information;

16 (c) Working closely and cooperatively with ((the)) business license
17 centers ((in providing)) to provide efficient and nonduplicative
18 service; and

19 ~~((Collecting and making available information regarding~~
20 ~~federal, state, local, and tribal government programs that rely on~~
21 ~~private professional expertise to assist agencies in project permit~~
22 ~~review; and~~

23 ~~(e))~~ Developing a ((call)) service center and a web site.

24 (2) The office shall coordinate among state agencies to develop an
25 office web site that is linked through the office of the governor's web
26 site and that contains information regarding permitting and regulatory
27 requirements for businesses and citizens in Washington state. At a
28 minimum, the web site shall provide information or links to information
29 on:

30 (a) Federal, state, and local rule-making processes and ((permit))
31 permitting and regulatory requirements applicable to Washington
32 businesses and citizens;

33 (b) Federal, state, and local licenses, permits, and approvals
34 necessary to start and operate a business or develop real property in
35 Washington;

36 (c) State and local building codes;

1 (d) Federal, state, and local economic development programs that
2 may be available to businesses in Washington; and

3 (e) State and local agencies regulating or providing assistance to
4 citizens and businesses operating a business or developing real
5 property in Washington.

6 (3) This section does not create an independent cause of action,
7 affect any existing cause of action, or create any new cause of action
8 regarding the application of regulatory or permit requirements.

9 **Sec. 6.** RCW 43.42.050 and 2003 c 54 s 4 are each amended to read
10 as follows:

11 At the request of a project (~~(applicant)~~) proponent, the office
12 shall assist the project (~~(applicant)~~) proponent in determining what
13 regulatory requirements, processes, and permits apply to the project,
14 as provided in this section.

15 (1) The office shall assign a project facilitator who shall discuss
16 applicable regulatory requirements, permits, and processes with the
17 project (~~(applicant)~~) proponent and explain the available options for
18 obtaining required permits and regulatory review.

19 (2) If the project (~~(applicant)~~) proponent and the project
20 facilitator agree that the project would benefit from a project
21 scoping, (~~(or if the project is an industrial project of statewide~~
22 ~~significance, as defined in RCW 43.157.010,)~~) the project facilitator
23 shall conduct a project scoping (~~(by)~~) with the project (~~(applicant)~~)
24 proponent and the relevant (~~(state and local permit)~~) permitting and
25 regulatory agencies. The project facilitator shall invite the
26 participation of the relevant federal (~~(permit)~~) agencies and tribal
27 governments.

28 (a) The purpose of the project scoping is to identify the issues
29 and information needs of the project (~~(applicant)~~) proponent and the
30 participating permit agencies regarding the project, share
31 perspectives, and jointly develop a strategy for the processing of
32 required permits by each participating permit agency.

33 (b) The scoping shall address:

34 (i) The permits that are required for the project;

35 (ii) The permit application forms and other application
36 requirements of the participating permit agencies;

1 (iii) The specific information needs and issues of concern of each
2 participant and their significance;

3 (iv) Any statutory or regulatory conflicts that might arise from
4 the differing authorities and roles of the permit agencies;

5 (v) Any natural resources, including federal or state listed
6 species, that might be adversely affected by the project and might
7 cause an alteration of the project or require mitigation; and

8 (vi) The anticipated time required for permit decisions by each
9 participating permit agency, including the time required to determine
10 if the permit application is complete, to conduct environmental review,
11 and to review and process the application. In determining the time
12 required, full consideration must be given to achieving the greatest
13 possible efficiencies through any concurrent studies and any
14 consolidated applications, hearings, and comment periods.

15 (c) The outcome of the project scoping shall be documented in
16 writing, furnished to the project (~~(applicant)~~) proponent, and be made
17 available to the public.

18 (d) The project scoping shall be completed within sixty days of the
19 project (~~(applicant's)~~) proponent's request for a project scoping.

20 (e) Upon completion of the project scoping, the participating
21 permit agencies shall proceed under their respective authority. The
22 agencies are encouraged to remain in communication for purposes of
23 coordination until their final permit decisions are made.

24 (3) This section does not create an independent cause of action,
25 affect any existing cause of action, or establish time limits for
26 purposes of RCW 64.40.020.

27 **Sec. 7.** RCW 43.42.060 and 2003 c 54 s 5 are each amended to read
28 as follows:

29 (1) The office may coordinate the processing by participating
30 permit agencies of permits required for a project, at the request of
31 the project (~~(applicant)~~) proponent through a cost reimbursement
32 agreement as provided in subsection (3) of this section or with the
33 agreement of the project (~~(applicant)~~) proponent as provided in
34 subsection (4) of this section.

35 (2) The office shall assign a project coordinator to perform any or
36 all of the following functions, as specified by the terms of a cost

1 reimbursement agreement under subsection (3) of this section or an
2 agreement under subsection (4) of this section:

3 (a) Serve as the main point of contact for the project
4 (~~applicant~~) proponent;

5 (b) Conduct a project scoping as provided in RCW 43.42.050(2);

6 (c) Verify that the project (~~applicant~~) proponent has all the
7 information needed to complete applications;

8 (d) Coordinate the permit processes of the permit agencies;

9 (e) Manage the applicable administrative procedures;

10 (f) Work to assure that timely permit decisions are made by the
11 permit agencies and maintain contact with the project (~~applicant~~)
12 proponent and the permit agencies to ensure adherence to schedules;

13 (g) Assist in resolving any conflict or inconsistency among permit
14 requirements and conditions; and

15 (h) Coordinate with relevant federal permit agencies and tribal
16 governments to the extent possible.

17 (3) At the request of a project (~~applicant~~) proponent and as
18 provided in RCW 43.42.070, the project coordinator shall coordinate
19 negotiations among the project (~~applicant~~) proponent, the office, and
20 participating permit agencies to enter into a cost reimbursement
21 agreement and shall coordinate implementation of the agreement, which
22 shall govern coordination of permit processing by the participating
23 permit agencies.

24 (4) For industrial projects of statewide significance or if the
25 office determines that it is in the public interest to coordinate the
26 processing of permits for certain projects that are complex in scope,
27 require multiple permits, involve multiple jurisdictions, or involve a
28 significant number of affected parties, the office shall, upon the
29 (~~applicant's~~) proponent's request, enter into an agreement with the
30 project (~~applicant~~) proponent and the participating permit agencies
31 to coordinate the processing of permits for the project. The office
32 may limit the number of such agreements according to the resources
33 available to the office and the permit agencies at the time.

34 **Sec. 8.** RCW 43.42.070 and 2003 c 70 s 7 are each amended to read
35 as follows:

36 (1) The office may coordinate negotiation and implementation of a
37 written agreement among the project (~~applicant~~) proponent, the

1 office, and participating permit agencies to recover from the project
2 ((~~applicant~~)) proponent the reasonable costs incurred by the office in
3 carrying out the provisions of RCW 43.42.050(2) and 43.42.060(2) and by
4 participating permit agencies in carrying out permit processing tasks
5 specified in the agreement.

6 (2) The office may coordinate negotiation and implementation of a
7 written agreement among the project ((~~applicant~~)) proponent, the
8 office, and participating permit agencies to recover from the project
9 ((~~applicant~~)) proponent the reasonable costs incurred by outside
10 independent consultants selected by the office and participating permit
11 agencies to perform permit processing tasks.

12 (3) Outside independent consultants may only bill for the costs of
13 performing those permit processing tasks that are specified in a cost-
14 reimbursement agreement under this section. The billing process shall
15 provide for accurate time and cost accounting and may include a billing
16 cycle that provides for progress payments.

17 (4) The office shall adopt a policy to coordinate cost-
18 reimbursement agreements with outside independent consultants. Cost-
19 reimbursement agreements coordinated by the office under this section
20 must be based on competitive bids that are awarded for each agreement
21 from a prequalified consultant roster.

22 (5) Independent consultants hired under a cost-reimbursement
23 agreement shall report directly to the permit agency. The office shall
24 assure that final decisions are made by the permit agency and not by
25 the consultant.

26 (6) The office shall develop procedures for determining,
27 collecting, and distributing cost reimbursement for carrying out the
28 provisions of this chapter.

29 (7) For a cost-reimbursement agreement, the office and
30 participating permit agencies shall negotiate a work plan and schedule
31 for reimbursement. Prior to distributing scheduled reimbursement to
32 the agencies, the office shall verify that the agencies have met the
33 obligations contained in their work plan.

34 (8) Prior to commencing negotiations with the project ((~~applicant~~))
35 proponent for a cost-reimbursement agreement, the office shall request
36 work load analyses from each participating permitting agency. These
37 analyses shall be available to the public. The work load of a

1 participating permit agency may only be modified with the concurrence
2 of the agency and if there is both good cause to do so and no
3 significant impact on environmental review.

4 (9) The office shall develop guidance to ensure that, in developing
5 cost-reimbursement agreements, conflicts of interest are eliminated.

6 (10) For project permit processes that it coordinates, the office
7 shall coordinate the negotiation of all cost-reimbursement agreements
8 executed under RCW 43.21A.690, (~~(43.30.420)~~) 43.30.490, 43.70.630,
9 43.300.080, and 70.94.085. The office and the permit agencies shall be
10 signatories to the agreements. Each permit agency shall manage
11 performance of its portion of the agreement.

12 (11) If a permit agency or the project (~~(applicant)~~) proponent
13 foresees, at any time, that it will be unable to meet its obligations
14 under the cost-reimbursement agreement, it shall notify the office and
15 state the reasons. The office shall notify the participating permit
16 agencies and the project (~~(applicant)~~) proponent and, upon agreement of
17 all parties, adjust the schedule, or, if necessary, coordinate revision
18 of the work plan.

19 **Sec. 9.** RCW 43.42.080 and 2004 c 32 s 1 are each amended to read
20 as follows:

21 (~~(1) The legislature finds that there are numerous efforts ongoing~~
22 ~~to streamline and improve permitting processes. These include the work~~
23 ~~of the transportation permit efficiency and accountability committee,~~
24 ~~chapter 47.06C RCW, and the efforts of the office of regulatory~~
25 ~~assistance to develop an integrated permit system, chapter 245, Laws of~~
26 ~~2003. While these efforts are ongoing and likely to yield procedural~~
27 ~~improvements in permit processing by 2006, there is an immediate need~~
28 ~~to coordinate permitting timelines for large, multiagency permit~~
29 ~~streamlining efforts.~~

30 (2)) With the agreement of all participating permitting agencies
31 and the permit applicant or project proponent, state permitting
32 agencies may establish timelines to make permit decisions, including
33 the time periods required to determine that the permit applications are
34 complete, to review the applications, and to process the permits.
35 Established timelines shall not be shorter than those otherwise
36 required for each permit under other applicable provisions of law, but
37 may extend and coordinate such timelines. The goal of the established

1 timelines is to achieve the maximum efficiencies possible through
2 concurrent studies and consolidation of applications, permit review,
3 hearings, and comment periods. A timeline established under this
4 subsection with the agreement of each permitting agency shall commit
5 each permitting agency to act within the established timeline.

6 **Sec. 10.** RCW 43.21A.690 and 2003 c 70 s 1 are each amended to read
7 as follows:

8 (1) The department may enter into a written cost-reimbursement
9 agreement with a permit applicant or project proponent to recover from
10 the applicant or proponent the reasonable costs incurred by the
11 department in carrying out the requirements of this chapter, as well as
12 the requirements of other relevant laws, as they relate to permit
13 coordination, environmental review, application review, technical
14 studies, and permit processing. The cost-reimbursement agreement shall
15 identify the specific tasks, costs, and schedule for work to be
16 conducted under the agreement.

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

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

5 ~~((3) The department may not enter into any new cost reimbursement~~
6 ~~agreements on or after July 1, 2007. The department may continue to~~
7 ~~administer any cost reimbursement agreement that was entered into~~
8 ~~before July 1, 2007, until the project is completed.))~~

9 **Sec. 11.** RCW 43.30.490 and 2003 c 70 s 2 are each amended to read
10 as follows:

11 (1) The department may enter into a written cost-reimbursement
12 agreement with a permit or lease applicant or project proponent to
13 recover from the applicant or proponent the reasonable costs incurred
14 by the department in carrying out the requirements of this chapter, as
15 well as the requirements of other relevant laws, as they relate to
16 permit coordination, environmental review, application review,
17 technical studies, and permit or lease processing. The cost-
18 reimbursement agreement shall identify the specific tasks, costs, and
19 schedule for work to be conducted under the agreement. ~~((An applicant~~
20 ~~for a lease issued under chapter 79.90 RCW may not enter into a cost-~~
21 ~~reimbursement agreement under this section for projects conducted under~~
22 ~~the lease.))~~

23 (2) The written cost-reimbursement agreement shall be negotiated
24 with the permit or lease applicant or project proponent. Under the
25 provisions of a cost-reimbursement agreement, funds from the applicant
26 or proponent shall be used by the department to contract with an
27 independent consultant to carry out the work covered by the cost-
28 reimbursement agreement. The department may also use funds provided
29 under a cost-reimbursement agreement to assign current staff to review
30 the work of the consultant, to provide necessary technical assistance
31 when an independent consultant with comparable technical skills is
32 unavailable, and to recover reasonable and necessary direct and
33 indirect costs that arise from processing the permit or lease. The
34 department shall, in developing the agreement, ensure that final
35 decisions that involve policy matters are made by the agency and not by
36 the consultant. The department shall make an estimate of the number of
37 permanent staff hours to process the permits or leases, 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 or leases not covered by cost-reimbursement agreements.
7 The department may not use any funds under a cost-reimbursement
8 agreement to replace or supplant existing funding. The restrictions of
9 chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any
10 person 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, 2007. The department may continue to~~
13 ~~administer any cost reimbursement agreement that was entered into~~
14 ~~before July 1, 2007, until the project is completed.))~~

15 **Sec. 12.** RCW 43.70.630 and 2003 c 70 s 3 are each amended to read
16 as follows:

17 (1) The department may enter into a written cost-reimbursement
18 agreement with a permit applicant or project proponent to recover from
19 the applicant or proponent the reasonable costs incurred by the
20 department in carrying out the requirements of this chapter, as well as
21 the requirements of other relevant laws, as they relate to permit
22 coordination, environmental review, application review, technical
23 studies, and permit processing. The cost-reimbursement agreement shall
24 identify the specific tasks, costs, and schedule for work to be
25 conducted under the agreement.

26 (2) The written cost-reimbursement agreement shall be negotiated
27 with the permit applicant or project proponent. Under the provisions
28 of a cost-reimbursement agreement, funds from the applicant or
29 proponent shall be used by the department to contract with an
30 independent consultant to carry out the work covered by the cost-
31 reimbursement agreement. The department may also use funds provided
32 under a cost-reimbursement agreement to assign current staff to review
33 the work of the consultant, to provide necessary technical assistance
34 when an independent consultant with comparable technical skills is
35 unavailable, and to recover reasonable and necessary direct and
36 indirect costs that arise from processing the permit. The department
37 shall, in developing the agreement, ensure that final decisions that

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

14 ~~((3) The department may not enter into any new cost reimbursement~~
15 ~~agreements on or after July 1, 2007. The department may continue to~~
16 ~~administer any cost reimbursement agreement that was entered into~~
17 ~~before July 1, 2007, until the project is completed.))~~

18 **Sec. 13.** RCW 43.300.080 and 2003 c 70 s 4 are each amended to read
19 as follows:

20 (1) The department may enter into a written cost-reimbursement
21 agreement with a permit applicant or project proponent to recover from
22 the applicant or proponent the reasonable costs incurred by the
23 department in carrying out the requirements of this chapter, as well as
24 the requirements of other relevant laws, as they relate to permit
25 coordination, environmental review, application review, technical
26 studies, and permit processing. The cost-reimbursement agreement shall
27 identify the specific tasks, costs, and schedule for work to be
28 conducted under the agreement.

29 (2) The written cost-reimbursement agreement shall be negotiated
30 with the permit applicant or project proponent. Under the provisions
31 of a cost-reimbursement agreement, funds from the applicant shall be
32 used by the department to contract with an independent consultant to
33 carry out the work covered by the cost-reimbursement agreement. The
34 department may also use funds provided under a cost-reimbursement
35 agreement to assign current staff to review the work of the consultant,
36 to provide necessary technical assistance when an independent
37 consultant with comparable technical skills is unavailable, and to

1 recover reasonable and necessary direct and indirect costs that arise
2 from processing the permit. The department shall, in developing the
3 agreement, ensure that final decisions that involve policy matters are
4 made by the agency and not by the consultant. The department 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 department may not use any funds under a cost-
13 reimbursement agreement to replace or supplant existing funding. The
14 restrictions of chapter 42.52 RCW apply to any cost-reimbursement
15 agreement, and to any person hired as a result of a cost-reimbursement
16 agreement.

17 ~~((3) The department may not enter into any new cost reimbursement~~
18 ~~agreements on or after July 1, 2007. The department may continue to~~
19 ~~administer any cost reimbursement agreement that was entered into~~
20 ~~before July 1, 2007, until the project is completed.))~~

21 **Sec. 14.** RCW 70.94.085 and 2003 c 70 s 5 are each amended to read
22 as follows:

23 (1) An authority may enter into a written cost-reimbursement
24 agreement with a permit applicant or project proponent to recover from
25 the applicant or proponent the reasonable costs incurred by the
26 authority in carrying out the requirements of this chapter, as well as
27 the requirements of other relevant laws, as they relate to permit
28 coordination, environmental review, application review, technical
29 studies, and permit processing. The cost-reimbursement agreement shall
30 identify the specific tasks, costs, and schedule for work to be
31 conducted under the agreement.

32 (2) The written cost-reimbursement agreement shall be negotiated
33 with the permit applicant or project proponent. Under the provisions
34 of a cost-reimbursement agreement, funds from the applicant or
35 proponent shall be used by the air pollution control authority to
36 contract with an independent consultant to carry out the work covered
37 by the cost-reimbursement agreement. The air pollution control

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

26 ~~((3) An air pollution control authority may not enter into any new
27 cost-reimbursement agreements on or after July 1, 2007. The authority
28 may continue to administer any cost-reimbursement agreement that was
29 entered into before July 1, 2007, until the project is completed.))~~

30 **Sec. 15.** RCW 43.131.401 and 2003 c 71 s 5 are each amended to read
31 as follows:

32 The office of regulatory assistance established in RCW 43.42.010
33 and its powers and duties shall be terminated June 30, ~~((2007))~~ 2011,
34 as provided in RCW 43.131.402.

35 **Sec. 16.** RCW 43.131.402 and 2003 c 71 s 6 are each amended to read
36 as follows:

1 The following acts or parts of acts, as now existing or hereafter
2 amended, are each repealed, effective June 30, (~~2008~~) 2012:

3 (1) RCW 43.42.005 and 2003 c 71 § 1 & 2002 c 153 § 1;

4 (2) RCW 43.42.010 and 2003 c 71 § 2 & 2002 c 153 § 2;

5 (3) RCW 43.42.020 and 2002 c 153 § 3;

6 (4) RCW 43.42.030 and 2003 c 71 § 3 & 2002 c 153 § 4;

7 (5) RCW 43.42.040 and 2003 c 71 § 4 & 2002 c 153 § 5;

8 (6) RCW 43.42.050 and 2002 c 153 § 6;

9 (7) RCW 43.42.060 and 2002 c 153 § 7;

10 (8) RCW 43.42.070 and 2002 c 153 § 8;

11 (9) RCW 43.42.905 and 2002 c 153 § 10;

12 (10) RCW 43.42.900 and 2002 c 153 § 11; and

13 (11) RCW 43.42.901 and 2002 c 153 § 12.

14 NEW SECTION. **Sec. 17.** RCW 43.42.905 is decodified.

15 NEW SECTION. **Sec. 18.** By July 1, 2008, the joint legislative
16 audit and review committee shall report to the governor and appropriate
17 committees of the legislature on the compliance of the office of
18 regulatory assistance with the sunset review proposed final report,
19 January 4, 2007, findings and recommendations.

20 NEW SECTION. **Sec. 19.** Section 15 of this act is necessary for the
21 immediate preservation of the public peace, health, or safety, or
22 support of the state government and its existing public institutions,
23 and takes effect immediately.

Passed by the Senate March 12, 2007.

Passed by the House April 5, 2007.

Approved by the Governor April 18, 2007.

Filed in Office of Secretary of State April 18, 2007.