

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2129

Chapter 338, Laws of 2007

(partial veto)

60th Legislature
2007 Regular Session

GEOTHERMAL RESOURCES

EFFECTIVE DATE: 07/22/07

Passed by the House April 17, 2007
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 13, 2007
Yeas 46 Nays 2

BRAD OWEN

President of the Senate

Approved May 4, 2007, 4:55 p.m., with
the exception of section 7 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk
of the House of Representatives of
the State of Washington, do hereby
certify that the attached is
certify that the attached is
SUBSTITUTE HOUSE BILL 2129 as
passed by the House of
Representatives and the Senate on
the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 7, 2007

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2129

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Technology, Energy & Communications
(originally sponsored by Representatives VanDeWege, Hudgins, Morris,
Eddy, Crouse, Hankins, McCoy, Takko, Hurst, McCune and Chase)

READ FIRST TIME 02/23/07.

1 AN ACT Relating to geothermal resources; and amending RCW
2 78.60.070, 78.60.100, 78.60.130, 78.60.200, 78.60.210, 78.60.230, and
3 43.30.490.

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

5 **Sec. 1.** RCW 78.60.070 and 1974 ex.s. c 43 s 7 are each amended to
6 read as follows:

7 (1) Any person proposing to drill a well or redrill an abandoned
8 well for geothermal resources shall file with the department a written
9 application for a permit to commence such drilling or redrilling on a
10 form prescribed by the department accompanied by a permit fee of two
11 hundred dollars. The department shall forward a duplicate copy to the
12 department of ecology within ten days of filing.

13 (2) Upon receipt of a proper application relating to drilling or
14 redrilling the department shall set a date, time, and place for a
15 public hearing on the application, which hearing shall be in the county
16 in which the drilling or redrilling is proposed to be made, and shall
17 instruct the applicant to publish notices of such application and
18 hearing by such means and within such time as the department shall
19 prescribe. The department shall require that the notice so prescribed

1 shall be published twice in a newspaper of general circulation within
2 the county in which the drilling or redrilling is proposed to be made
3 and in such other appropriate information media as the department may
4 direct.

5 (3) Any person proposing to drill a core hole for the purpose of
6 gathering geothermal data, including but not restricted to heat flow,
7 temperature gradients, and rock conductivity, shall be required to
8 obtain a single permit for each (~~(geothermal area)~~) core hole according
9 to subsection (1) of this section, (~~(except that no)~~) including a
10 permit fee (~~(shall be required)~~) for each core hole, but no notice need
11 be published, and no hearing need be held. Such core holes that
12 penetrate more than seven hundred and fifty feet into bedrock shall be
13 deemed geothermal test wells and subject to the payment of a permit fee
14 and to the requirement in subsection (2) of this section for public
15 notices and hearing. In the event geothermal energy is discovered in
16 a core hole, the hole shall be deemed a geothermal well and subject to
17 the permit fee, notices, and hearing. Such core holes as described by
18 this subsection are subject to all other provisions of this chapter,
19 including a bond or other security as specified in RCW (~~(79.76.130)~~)
20 78.60.130.

21 (4) All moneys paid to the department under this section shall be
22 deposited with the state treasurer for credit to the general fund.

23 **Sec. 2.** RCW 78.60.100 and 1974 ex.s. c 43 s 10 are each amended to
24 read as follows:

25 Any well or core hole drilled under authority of this chapter from
26 which:

27 (1) It is not technologically practical to derive the energy to
28 produce electricity commercially, or the owner or operator has no
29 intention of deriving energy to produce electricity commercially, and

30 (2) Usable minerals cannot be derived, or the owner or operator has
31 no intention of deriving usable minerals, shall be plugged and
32 abandoned as provided in this chapter or, upon the owner's or
33 operator's written application to the department of natural resources
34 and with the concurrence and approval of the department of ecology,
35 jurisdiction over the well may be transferred to the department of
36 ecology and, in such case, the well shall no longer be subject to the
37 provisions of this chapter but shall be subject to any applicable laws

1 and (~~regulations~~) rules relating to wells drilled for appropriation
2 and use of ground waters. If an application is made to transfer
3 jurisdiction, a copy of all logs, records, histories, and descriptions
4 shall be provided to the department of ecology by the applicant.

5 **Sec. 3.** RCW 78.60.130 and 1974 ex.s. c 43 s 13 are each amended to
6 read as follows:

7 Every operator who engages in the drilling, redrilling, or
8 deepening of any well or core hole shall file with the department a
9 reasonable bond or bonds with good and sufficient surety, or the
10 equivalent thereof, acceptable to the department, conditioned on
11 compliance with the provisions of this chapter and all rules and
12 (~~regulations and~~) permit conditions adopted pursuant to this chapter.
13 This performance bond shall be executed in favor of and approved by the
14 department.

15 In lieu of a bond the operator may file with the department a cash
16 deposit, negotiable securities acceptable to the department, or an
17 assignment of a savings account in a Washington bank on an assignment
18 form prescribed by the department. The department, in its discretion,
19 may accept a single surety or security arrangement covering more than
20 one well or core hole.

21 **Sec. 4.** RCW 78.60.200 and 1974 ex.s. c 43 s 20 are each amended to
22 read as follows:

23 (1) The owner or operator of any well or core hole shall keep or
24 cause to be kept careful and accurate logs, including but not
25 restricted to heat flow, temperature gradients, and rock conductivity
26 logs, records, descriptions, and histories of the drilling, redrilling,
27 or deepening of the well.

28 (2) All logs, including but not restricted to heat flow,
29 temperature gradients, and rock conductivity logs, records, histories,
30 and descriptions referred to in subsection (1) of this section shall be
31 kept in the local office of the owner or operator, and together with
32 other reports of the owner or operator shall be subject during business
33 hours to inspection by the department. Each owner or operator, upon
34 written request from the department, shall file with the department
35 ((a)) one paper and one electronic copy of the logs, including but not
36 restricted to heat flow, temperature gradients, and rock conductivity

1 logs, records, histories, descriptions, or other records or portions
2 thereof pertaining to the geothermal drilling or operation underway or
3 suspended.

4 **Sec. 5.** RCW 78.60.210 and 1974 ex.s. c 43 s 21 are each amended to
5 read as follows:

6 Upon completion or plugging and abandonment of any well or core
7 hole or upon the suspension of operations conducted with respect to any
8 well or core hole for a period of at least six months, one paper and
9 one electronic copy of (~~the~~) logs, including but not restricted to
10 heat flow, temperature gradients, and rock conductivity logs, core
11 (~~record~~), electric log, history, and all other logs and surveys that
12 may have been run on the well, shall be filed with the department
13 within thirty days after such completion, plugging and abandonment, or
14 six months' suspension.

15 **Sec. 6.** RCW 78.60.230 and 1974 ex.s. c 43 s 23 are each amended to
16 read as follows:

17 (1) The records of any owner or operator, when filed with the
18 department as provided in this chapter, shall be confidential and shall
19 be open to inspection only to personnel of the department for the
20 purpose of carrying out the provisions of this chapter and to those
21 authorized in writing by such owner or operator, until the expiration
22 of a twenty-four month confidential period to begin at the date of
23 commencement of production or of abandonment of the well or core hole.
24 After expiration of the twenty-four month confidential period, the
25 department shall ensure all logs and surveys that may have been run on
26 the well or core hole are preserved in an electronic data system and
27 made available to the public.

28 (2) Such records shall in no case, except as provided in this
29 chapter, be available as evidence in court proceedings. No officer,
30 employee, or member of the department shall be allowed to give
31 testimony as to the contents of such records, except as provided in
32 this chapter for the review of a decision of the department or in any
33 proceeding initiated for the enforcement of an order of the department,
34 for the enforcement of a lien created by the enforcement of this
35 chapter, or for use as evidence in criminal proceedings arising out of
36 such records or the statements upon which they are based.

1 *Sec. 7. RCW 43.30.490 and 2003 c 70 s 2 are each amended to read
2 as follows:

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

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

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

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

*Sec. 7 was vetoed. See message at end of chapter.

Passed by the House April 17, 2007.

Passed by the Senate April 13, 2007.

Approved by the Governor May 4, 2007, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 7, 2007.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 7, Substitute
House Bill 2129 entitled:

"AN ACT Relating to geothermal resources."

Section 7 of this bill extends the Department of Natural Resources'
authority to recover costs for activities related to permits and
leases. This authority has already been extended by other legislation
previously enacted during the 2007 legislative session. Accordingly,
section 7 of the bill is not needed. In addition, the subject of
this section is beyond the scope of the bill title.

For these reasons, I have vetoed Section 7 of Substitute House Bill
2129.

With the exception of Section 7, Substitute House Bill 2129 is
approved."