

House Bill 3107

Sponsored by Representatives LIVELY, LEVY B, LEVY E, EVANS; Representatives BOSHART DAVIS, DRAZAN, MCLAIN, NGUYEN D, OWENS, PHAM H, Senators ANDERSON, MEEK (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act changes the way DEQ can agree to make a regulatory process work better or faster. (Flesch Readability Score: 60.1).

Modifies the authority of the Department of Environmental Quality to enter into agreements with regulated entities to expedite or enhance a regulatory process. Directs the Environmental Quality Commission to establish standards to guide the department in the exercise of the department's authority.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to Department of Environmental Quality regulatory processes; creating new provisions; and
3 amending ORS 468.073; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 468.073 is amended to read:

6 468.073. (1) [*The Department of Environmental Quality may enter into an agreement with*] Any
7 applicant, permittee or regulated entity **may enter into an agreement with the Department of**
8 **Environmental Quality** setting a schedule of payments to the department for the purpose of ena-
9 bling the department to expedite or enhance a regulatory process by contracting for services, hiring
10 additional staff or covering costs of activities not otherwise provided during the ordinary course of
11 department business. The department may expend moneys received under the agreements for:

12 (a) Activities undertaken by the department under authority of any provision of ORS chapters
13 448, 453, 454, 459, 459A, 465, 466, 467, 468, 468A and 468B and ORS 475.405 to 475.495.

14 (b) Administering and reviewing activities described under subsection [(3)] (8) of this section
15 that are performed by a third party.

16 (2)(a) **An applicant, permittee or regulated entity is entitled to enter into an agreement**
17 **described under subsection (1) of this section unless the department:**

18 (A) **Finds that the department has sufficient resources or staff to complete the relevant**
19 **regulatory process within six months or the timeline otherwise provided for by statute; and**

20 (B) **Determines under paragraph (b) of this subsection that an agreement under sub-**
21 **section (1) of this section would not be in the public interest.**

22 (b) **To determine whether an agreement under subsection (1) of this section is in the**
23 **public interest, the department shall consider:**

24 (A) **The complexity of the regulatory process the requester seeks to expedite or enhance;**

25 (B) **The availability of department personnel to conduct the regulatory process the re-**
26 **quester seeks to expedite or enhance;**

27 (C) **The benefits and risks that contracting for services, hiring additional staff or cover-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 ing costs of activities not otherwise provided during the ordinary course of department
 2 business present as related to the regulatory process the requester seeks to expedite or en-
 3 hance; and

4 (D) The number of outstanding regulatory activities of the department and the projected
 5 timeline to complete those activities.

6 (3)(a) No less than 20 business days after receiving a written request to enter into an
 7 agreement under subsection (1) of this section, the department shall notify the requester in
 8 writing that:

9 (A) The requester is entitled to enter into an agreement with the department; or

10 (B) The requester is not entitled to enter into an agreement with the department based
 11 on the department's findings and determinations under subsection (2) of this section.

12 (b) Notices provided to requesters under this subsection must include the department's
 13 findings and consideration of the factors described in subsection (2)(b) of this section. A no-
 14 tice provided under this subsection is a final order for purposes of judicial review under ORS
 15 183.480 to 183.497.

16 (4)(a) The Environmental Quality Commission shall establish by rule standards for guid-
 17 ing the department regarding:

18 (A) The identification of department activities or portions thereof suitable for contract-
 19 ing out to third parties; and

20 (B) The approval of third parties to conduct activities described under subsection (8) of
 21 this section.

22 (b) Standards established under paragraph (a)(B) of this subsection must require the de-
 23 partment to consider:

24 (A) The experience and knowledge of the third party related to department activities;

25 (B) The third party's public reputation; and

26 (C) The independence of the third party from the requesting party.

27 (5) The department shall make available on the department's website:

28 (a) Agreements entered into under subsection (1) of this section;

29 (b) Notices provided to applicants under subsection (3) of this section; and

30 (c) A list of third parties hired or contracted by the department and a description of the
 31 services rendered.

32 (6) The department may not waive any of the department's authority or obligations under
 33 any provision of ORS chapters 448, 453, 454, 459, 459A, 465, 466, 467, 468, 468A and 468B and
 34 ORS 475.405 to 475.495 or rules adopted by the commission by entering into an agreement
 35 under subsection (1) of this section. Except as provided in subsection (7) of this section, the
 36 department may not waive or alter any obligation or requirement of an applicant, permittee
 37 or regulated entity under any provision of ORS chapters 448, 453, 454, 459, 459A, 465, 466, 467,
 38 468, 468A and 468B and ORS 475.405 to 475.495 or any rule adopted by the commission by en-
 39 tering into an agreement under subsection (1) of this section.

40 [(2)] (7) Payments agreed to under subsection (1) of this section shall be for services voluntarily
 41 requested by the applicant, permittee or regulated entity. As part of the agreement, the department
 42 may waive all or part of any fee otherwise imposed for those services. The department shall not
 43 alter or establish processing priorities or schedules based upon an expectation of entering into an
 44 agreement under subsection (1) of this section.

45 [(3)] (8) [Not later than July 1, 1998,] The department shall identify department activities or

1 portions thereof suitable for contracting out to third parties **and publish that information on the**
 2 **department's website.** Failure of the department to identify a specific activity shall not prevent the
 3 expenditure of funds for that activity or for department administration and review of that activity
 4 under an agreement entered into pursuant to subsection (1) of this section.

5 [(4)] **(9)** Any moneys received by the department under an agreement described under subsection
 6 (1) of this section shall not exceed the cost to the department of providing the service to the appli-
 7 cant, permittee or regulated entity.

8 [(5)] **(10)** Any payments received under an agreement described under [subsections (1) to (4)]
 9 **subsection (1)** of this section shall be deposited in the State Treasury to the credit of an account
 10 of the Department of Environmental Quality and are continuously appropriated for the purposes
 11 specified in the individual agreements.

12 **(11) Notwithstanding subsection (2) of this section, the department shall, in a timely**
 13 **manner, enter into an agreement under subsection (1) of this section with the applicant,**
 14 **permittee or regulated entity if:**

15 **(a) At least one year has passed since the department determined that the applicant,**
 16 **permittee or regulated entity was not entitled to enter into an agreement under subsection**
 17 **(1) of this section;**

18 **(b) There is not a pending proceeding for judicial review of the notice provided under**
 19 **subsection (3)(a)(B) of this section; and**

20 **(c) The regulatory process for which the applicant, permittee or regulated entity sought**
 21 **to enter into an agreement has not been completed.**

22 **SECTION 2. (1) The amendments to ORS 468.073 by section 1 of this 2025 Act become**
 23 **operative on January 1, 2026.**

24 **(2) The Department of Environmental Quality and the Environmental Quality Commis-**
 25 **sion may take any action before the operative date specified in subsection (1) of this section**
 26 **that is necessary to enable the department or the commission to exercise, on and after the**
 27 **operative date specified in subsection (1) of this section, all of the duties, functions and**
 28 **powers conferred on the department and the commission by the amendments to ORS 468.073**
 29 **by section 1 of this 2025 Act.**

30 **SECTION 3. (1) The Environmental Quality Commission shall first adopt by rule the**
 31 **standards described in ORS 468.073 (4) no later than January 1, 2026.**

32 **(2) The Department of Environmental Quality shall first publish the information required**
 33 **by ORS 468.073 (8) on the department's website no later than January 1, 2026.**

34 **SECTION 4. This 2025 Act takes effect on the 91st day after the date on which the 2025**
 35 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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