

House Bill 4102

Sponsored by Representatives DOBSON, LIVELY, Senator SOLLMAN; Representatives EVANS, FRAGALA, GOMBERG, HARTMAN, ISADORE, JAVADI, LEVY E, MCLAIN, NGUYEN D, PHAM H, RIEKE SMITH, WALTERS, WATANABE, Senator MEEK (Presession 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 faster or better. (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.

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

A BILL FOR AN ACT

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

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

SECTION 1. ORS 468.073 is amended to read:

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

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

[(b)] **(B)** Administering and reviewing activities [*described under subsection (3) of this section that are*] performed by a third party **pursuant to this section**.

(C) Hiring additional staff, including limited duration employees, for the purpose of expediting or enhancing the regulatory process.

(b) Before hiring additional staff or contracting with a third party to provide services pursuant to this section, the department shall evaluate opportunities to perform the services with existing staff.

(2)(a) An applicant, permittee or regulated entity may request that the department enter into an agreement described in subsection (1) of this section. The request must include:

(A) A complete description of each permit, authorization or other regulatory determination for which the agreement is being requested;

(B) A statement of need that includes an explanation of why the expedited or enhanced regulatory process is in the public interest; and

(C) A demonstration that the requester has secured any land use permit, authorization or other approval necessary for the project for which an agreement under subsection (1) of

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 this section is being sought.

2 (b) The department shall evaluate whether the expedited or enhanced regulatory process
3 is in the public interest by considering:

4 (A) Project readiness; and

5 (B) The number of department regulatory activities that are outstanding and the impact
6 on those activities from an agreement for the expedited or enhanced regulatory process.

7 (3)(a) No later than 45 business days after receiving a written request to enter into an
8 agreement under subsection (1) of this section, the department shall notify the requester in
9 writing that:

10 (A) The request is granted; or

11 (B) The request is denied based on the department's consideration of the factors de-
12 scribed in subsection (2)(b) of this section.

13 (b) Notices provided to requesters under this subsection must include a description of the
14 department's consideration of the factors described in subsection (2)(b) of this section. A
15 requester may submit a request for reconsideration of a notice provided under paragraph
16 (a)(B) of this subsection to the Director of the Department of Environmental Quality. The
17 director's decision on a request for reconsideration is not subject to judicial review under
18 ORS chapter 183.

19 (4)(a) The department shall make available on the department's website:

20 (A) Agreements entered into under subsection (1) of this section;

21 (B) Notices provided to applicants under subsection (3) of this section; and

22 (C) A list of third parties hired or contracted with by the department and a description
23 of the services rendered.

24 (b) Information made available by the department under this subsection must be redacted
25 to exclude any trade secrets, as defined in ORS 646.461, or other confidential business infor-
26 mation.

27 (5) The department may not waive any of the department's authority or obligations under
28 any provision of ORS chapters 448, 453, 454, 459, 459A, 465, 466, 467, 468, 468A and 468B and
29 ORS 475.405 to 475.495 or rules adopted by the Environmental Quality Commission by enter-
30 ing into an agreement under subsection (1) of this section. Except as provided in subsection
31 (6) of this section, the department may not waive or alter any obligation or requirement of
32 an applicant, permittee or regulated entity under any provision of ORS chapters 448, 453, 454,
33 459, 459A, 465, 466, 467, 468, 468A and 468B and ORS 475.405 to 475.495 or any rule adopted
34 by the commission by entering into an agreement under subsection (1) of this section.

35 [(2)] (6) Payments agreed to under subsection (1) of this section shall be for services voluntarily
36 requested by the applicant, permittee or regulated entity. As part of the agreement, the department
37 may waive all or part of any fee otherwise imposed for those services. The department shall not
38 alter or establish processing priorities or schedules based upon an expectation of entering into an
39 agreement under subsection (1) of this section.

40 [(3) Not later than July 1, 1998, the department shall identify department activities or portions
41 thereof suitable for contracting out to third parties. Failure of the department to identify a specific ac-
42 tivity shall not prevent the expenditure of funds for that activity or for department administration and
43 review of that activity under an agreement entered into pursuant to subsection (1) of this section.]

44 [(4)] (7) Any moneys received by the department under an agreement described under subsection
45 (1) of this section shall not exceed the cost to the department of providing the service to the appli-

1 cant, permittee or regulated entity.

2 [(5)] (8) Any payments received under an agreement described under [subsections (1) to (4)]
3 **subsection (1)** of this section shall be deposited in the State Treasury to the credit of an account
4 of the Department of Environmental Quality and are continuously appropriated for the purposes
5 specified in the individual agreements.

6 (9) **Notwithstanding subsection (2) of this section, the department shall, in a timely**
7 **manner, enter into an agreement under subsection (1) of this section with an applicant,**
8 **permittee or regulated entity if:**

9 (a) **The applicant has submitted a complete application for a permit, authorization or**
10 **other regulatory determination with all information necessary for the department to take**
11 **action;**

12 (b) **Qualified and appropriate third-party contractors are available;**

13 (c) **At least one year has passed since the department denied a request by the applicant,**
14 **permittee or regulated entity to enter into an agreement under subsection (1) of this section;**
15 **and**

16 (d) **The regulatory process for which the applicant, permittee or regulated entity sought**
17 **to enter into an agreement has not been substantially completed.**

18 (10) **Upon completion of the work conducted by a third party, the department shall ex-**
19 **pedite commencement of any relevant public process requirements and take action on the**
20 **application for the permit, authorization or other regulatory determination.**

21 **SECTION 2. (1) The amendments to ORS 468.073 by section 1 of this 2026 Act become**
22 **operative on January 1, 2027.**

23 (2) **The Department of Environmental Quality may take any action before the operative**
24 **date specified in subsection (1) of this section that is necessary to enable the department to**
25 **exercise, on and after the operative date specified in subsection (1) of this section, all of the**
26 **duties, functions and powers conferred on the department by the amendments to ORS 468.073**
27 **by section 1 of this 2026 Act.**

28 **SECTION 3. This 2026 Act takes effect on the 91st day after the date on which the 2026**
29 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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