

Requested by Senator PHAM K

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4102**

1 On page 1 of the printed bill, delete lines 5 through 28 and delete page  
2 2.

3 On page 3, delete lines 1 through 20 and insert:

4 **“SECTION 1.** ORS 468.073 is amended to read:

5 “468.073. (1)(a) [*The Department of Environmental Quality may enter into*  
6 *an agreement with*] Any applicant, permittee or regulated entity **may enter**  
7 **into an agreement with the Department of Environmental Quality**  
8 setting a schedule of payments to the department for the purpose of enabling  
9 the department to expedite or enhance a regulatory process by contracting  
10 for services, hiring additional staff or covering costs of activities not other-  
11 wise provided during the ordinary course of department business. The de-  
12 partment may expend moneys received under the agreements for:

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

16 “[*b*] **(B)** Administering and reviewing activities [*described under sub-*  
17 *section (3) of this section that are*] performed by a third party **pursuant to**  
18 **this section.**

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

21 **“(b) Before hiring additional staff or contracting with a third party**

1 to provide services pursuant to this section, the department shall  
2 evaluate opportunities to perform the services with existing staff.

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

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

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

10 “(C) A demonstration that the requester has secured any land use  
11 permit, authorization or other approval necessary for the project for  
12 which an agreement under subsection (1) of this section is being  
13 sought; and

14 “(D) A statement affirming that any contractors, as defined in ORS  
15 701.005, working on the project will:

16 “(i) Utilize a skilled and trained workforce, as provided in sub-  
17 section (10)(b) of this section; or

18 “(ii) Perform work on the project pursuant to an agreement that  
19 satisfies the requirements of subsection (10)(c) of this section.

20 “(b) The department shall evaluate whether the expedited or en-  
21 hanced regulatory process is in the public interest by considering:

22 “(A) Project readiness;

23 “(B) The number of department regulatory activities that are out-  
24 standing and the impact on those activities from an agreement for the  
25 expedited or enhanced regulatory process;

26 “(C) The applicant’s, permittee’s or regulated entity’s history of  
27 compliance with environmental quality laws; and

28 “(D) Any violations by the applicant, permittee or regulated entity  
29 of any provision of ORS chapters 448, 453, 454, 459, 459A, 465, 466, 467,  
30 468, 468A and 468B and ORS 475.405 to 475.495 or any applicable rule,

1 standard or order of the Environmental Quality Commission.

2 “(3)(a) No later than 45 business days after receiving a written re-  
3 quest to enter into an agreement under subsection (1) of this section,  
4 the department shall notify the requester in writing that:

5 “(A) The request is granted; or

6 “(B) The request is denied based on the department’s consideration  
7 of the factors described in subsection (2)(b) of this section.

8 “(b) Notices provided to requesters under this subsection must in-  
9 clude a description of the department’s consideration of the factors  
10 described in subsection (2)(b) of this section. A requester may submit  
11 a request for reconsideration of a notice provided under paragraph  
12 (a)(B) of this subsection to the Director of the Department of Envi-  
13 ronmental Quality. The director’s decision on a request for reconsid-  
14 eration is not subject to judicial review under ORS chapter 183.

15 “(4)(a) The department shall make available on the department’s  
16 website:

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

18 “(B) Notices provided to applicants under subsection (3) of this  
19 section; and

20 “(C) A list of third parties hired or contracted with by the depart-  
21 ment and a description of the services rendered.

22 “(b) Information made available by the department under this sub-  
23 section must be redacted to exclude any trade secrets, as defined in  
24 ORS 646.461, or other confidential business information.

25 “(5) The department may not waive any of the department’s au-  
26 thority or obligations under any provision of ORS chapters 448, 453,  
27 454, 459, 459A, 465, 466, 467, 468, 468A and 468B and ORS 475.405 to  
28 475.495 or any rule adopted by the Environmental Quality Commission  
29 by entering into an agreement under subsection (1) of this section.  
30 Except as provided in subsection (6) of this section, the department

1 **may not waive or alter any obligation or requirement of an applicant,**  
2 **permittee or regulated entity under any provision of ORS chapters 448,**  
3 **453, 454, 459, 459A, 465, 466, 467, 468, 468A and 468B and ORS 475.405 to**  
4 **475.495 or any rule adopted by the commission by entering into an**  
5 **agreement under subsection (1) of this section.**

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

12 “[3] *Not later than July 1, 1998, the department shall identify department*  
13 *activities or portions thereof suitable for contracting out to third parties.*  
14 *Failure of the department to identify a specific activity shall not prevent the*  
15 *expenditure of funds for that activity or for department administration and*  
16 *review of that activity under an agreement entered into pursuant to subsection*  
17 *(1) of this section.]*

18 “[4] (7) Any moneys received by the department under an agreement  
19 described under subsection (1) of this section shall not exceed the cost to the  
20 department of providing the service to the applicant, permittee or regulated  
21 entity.

22 “[5] (8) Any payments received under an agreement described under  
23 [subsections (1) to (4)] **subsection (1)** of this section shall be deposited in the  
24 State Treasury to the credit of an account of the Department of Environ-  
25 mental Quality and are continuously appropriated for the purposes specified  
26 in the individual agreements.

27 **“(9)(a) In selecting a third party contractor to perform services**  
28 **under this section, the department shall consider the contractor’s:**

29 **“(A) Prior experience in the types of services that the contractor**  
30 **is expected to provide;**

1       **“(B) Demonstrated knowledge of the project and regulatory process;**

2       **“(C) Resources and ability to meet relevant deadlines;**

3       **“(D) Record in meeting performance obligations of similar contracts**  
4 **or services, if applicable; and**

5       **“(E) Potential or actual conflicts of interest with the applicant,**  
6 **permittee or regulated entity.**

7       **“(10)(a) As used in this section:**

8       **“(A) ‘Apprentice’ has the meaning given that term in ORS 660.010.**

9       **“(B) ‘Contractor’ has the meaning given that term in ORS 701.005.**

10       **“(C) ‘Journeyworker’ has the meaning given that term in ORS**  
11 **660.010.**

12       **“(D) ‘Prevailing rate of wage’ has the meaning given that term in**  
13 **ORS 279C.800.**

14       **“(b) A contractor satisfies the requirement to utilize a skilled and**  
15 **trained workforce on a project for which an agreement under sub-**  
16 **section (1) of this section has been approved by ensuring that:**

17       **“(A) At least 35 percent of all journeyworkers who are employed to**  
18 **perform work on the project have completed an apprenticeship pro-**  
19 **gram registered with the State Apprenticeship and Training Council.**

20       **“(B) All apprentices who are employed to perform work on the**  
21 **project are enrolled in an apprenticeship program registered with the**  
22 **State Apprenticeship and Training Council.**

23       **“(C) All journeyworkers who are employed to perform work on the**  
24 **project have completed at least 30 hours of occupational safety and**  
25 **health training within the 24 months prior to commencing work on the**  
26 **project.**

27       **“(D) All journeyworkers and apprentices performing work on the**  
28 **project are paid wages at a rate that is no less than the prevailing rate**  
29 **of wage.**

30       **“(c) In lieu of satisfying the requirements of paragraph (b) of this**

1 subsection, a contractor may enter into a binding agreement with la-  
2 bor and community groups regarding the minimum labor and envi-  
3 ronmental standards for all construction work performed on the  
4 project. A project labor agreement, as defined in 48 C.F.R. 52.222-34 as  
5 in effect on January 1, 2026, may be used to satisfy the requirements  
6 of this paragraph. An agreement described in this paragraph may in-  
7 clude assurances to engage with apprenticeship programs registered  
8 with the State Apprenticeship and Training Council and, with respect  
9 to work performed by persons not engaging in a skilled trade, insti-  
10 tutions of higher education.

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

14 “(a) The applicant has submitted a complete application for a per-  
15 mit, authorization or other regulatory determination with all infor-  
16 mation necessary for the department to take action;

17 “(b) Qualified and appropriate third-party contractors are available;

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

21 “(d) The regulatory process for which the applicant, permittee or  
22 regulated entity sought to enter into an agreement has not been sub-  
23 stantially completed.

24 “(12) Upon completion of the work conducted by a third party, the  
25 department shall expedite commencement of any relevant public pro-  
26 cess requirements and take action on the application for the permit,  
27 authorization or other regulatory determination.”.

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