

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

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

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

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

21 **“(2)(a) An applicant, permittee or regulated entity may request that**

1 the department enter into an agreement described in subsection (1)
2 of this section. The request must include:

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

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

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

11 “(D) A statement affirming that any contractors, as defined in ORS
12 701.005, working on the project will:

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

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

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

19 “(A) Project readiness;

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

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

25 “(D) Any violations by the applicant, permittee or regulated entity
26 of any provision of ORS chapters 448, 453, 454, 459, 459A, 465, 466, 467,
27 468, 468A and 468B and ORS 475.405 to 475.495 or any applicable rule,
28 standard or order of the Environmental Quality Commission.

29 “(3)(a) No later than 45 business days after receiving a written re-
30 quest to enter into an agreement under subsection (1) of this section,

1 the department shall notify the requester in writing that:

2 “(A) The request is granted; or

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

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

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

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

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

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

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

22 “(5) The department may not waive any of the department’s au-
23 thority or obligations under any provision of ORS chapters 448, 453,
24 454, 459, 459A, 465, 466, 467, 468, 468A and 468B and ORS 475.405 to
25 475.495 or any rule adopted by the Environmental Quality Commission
26 by entering into an agreement under subsection (1) of this section.
27 Except as provided in subsection (6) of this section, the department
28 may not waive or alter any obligation or requirement of an applicant,
29 permittee or regulated entity under any provision of ORS chapters 448,
30 453, 454, 459, 459A, 465, 466, 467, 468, 468A and 468B and ORS 475.405 to

1 **475.495 or any rule adopted by the commission by entering into an**
2 **agreement under subsection (1) of this section.**

3 “[2)] (6) Payments agreed to under subsection (1) of this section shall be
4 for services voluntarily requested by the applicant, permittee or regulated
5 entity. As part of the agreement, the department may waive all or part of
6 any fee otherwise imposed for those services. The department shall not alter
7 or establish processing priorities or schedules based upon an expectation of
8 entering into an agreement under subsection (1) of this section.

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

15 “[4)] (7) Any moneys received by the department under an agreement
16 described under subsection (1) of this section shall not exceed the cost to the
17 department of providing the service to the applicant, permittee or regulated
18 entity.

19 “[5)] (8) Any payments received under an agreement described under
20 [subsections (1) to (4)] **subsection (1)** of this section shall be deposited in the
21 State Treasury to the credit of an account of the Department of Environ-
22 mental Quality and are continuously appropriated for the purposes specified
23 in the individual agreements.

24 **“(9)(a) Before hiring additional staff or contracting with a third**
25 **party to provide services pursuant to this section, the department**
26 **shall evaluate opportunities to perform the services with existing staff.**

27 **“(b) In selecting a third party contractor to perform services under**
28 **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.”.