

1 H.4

2 Introduced by Representative Krebs of South Hero

3 Referred to Committee on

4 Date:

5 Subject: Conservation; Agency of Natural Resources; reimbursement of costs

6 Statement of purpose: This bill proposes to repeal certain authority of the

7 Agency of Natural Resources to seek reimbursement of Agency costs from an

8 applicant for a permit, license, certification, or order issued under a program

9 that the Secretary of Natural Resources enforces.

10 An act relating to reimbursement of Agency of Natural Resources costs

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 3 V.S.A. § 2809 is amended to read:

13 § 2809. REIMBURSEMENT OF AGENCY COSTS

14 (a)(1) The ~~secretary~~ Secretary may require an applicant for a permit,

15 license, certification, or order issued under a program that the ~~secretary~~

16 Secretary enforces under 10 V.S.A. § 8003(a) to pay for the cost of research,

17 scientific, ~~programmatic~~, or engineering expertise ~~provided by~~ or services that

18 ~~the agency of natural resources, provided:~~

1 ~~(A) the secretary~~ Agency of Natural Resources does not have when
2 such expertise or services ~~and such expertise is~~ are required for the processing
3 of the application for the permit, license, certification, or order; ~~or~~

4 ~~(B) the secretary does have such expertise but has made a~~
5 ~~determination that it is beyond the agency's internal capacity to effectively~~
6 ~~utilize that expertise to process the application for the permit, license,~~
7 ~~certification, or order. In addition, the secretary shall determine that such~~
8 ~~expertise is required for the processing of the application for the permit,~~
9 ~~license, certification, or order.~~

10 (2) The ~~secretary~~ Secretary may require an applicant under 10 V.S.A.
11 ~~chapter 151 of Title 10~~ to pay for the time of ~~agency of natural resources~~
12 Agency of Natural Resources personnel providing research, scientific, or
13 engineering services or for the cost of expert witnesses when ~~agency~~ Agency
14 personnel or expert witnesses are required for the processing of the permit
15 application.

16 (3) ~~In addition to the authority~~ Except as set forth under 10 V.S.A.
17 ~~chapters 59 and 159 of Title 10 and 10 V.S.A. § 1283, the secretary~~ Secretary
18 may require a person who caused the ~~agency~~ Agency to incur expenditures or a
19 person in violation of a permit, license, certification, or order issued by the
20 ~~secretary~~ Secretary to pay for the time of ~~agency~~ Agency personnel or the cost
21 of other research, scientific, or engineering services incurred by the ~~agency~~

1 Agency in response to a threat to public health or the environment presented by
2 an emergency or exigent circumstance.

3 (b) Prior to commencing or contracting for research, scientific, or
4 engineering expertise or services or contracting for expert witnesses for which
5 the ~~secretary~~ Secretary intends to seek cost reimbursement under subdivisions
6 (a)(1) and (2) of this section, the ~~secretary~~ Secretary shall notify the applicant
7 for a permit, license, certification, or order of the ~~secretary's~~ Secretary's
8 authority to assess costs under this section.

9 (c)(1) Within 15 days of issuance of notice under subsection (b) of this
10 section, an applicant for a permit, license, certification, or order may request a
11 meeting with the ~~secretary~~ Secretary to identify and review the proposed
12 ~~agency~~ Agency services or contracting services that may be assessed to the
13 applicant.

14 (2) The ~~secretary~~ Secretary may enter into agreements with an applicant
15 for a permit, license, certification, or order under which either the applicant or
16 the ~~agency of natural resources~~ Agency of Natural Resources shall provide or
17 pay for the necessary research, scientific, or engineering expertise or services
18 or expert witnesses.

19 (3) When the ~~secretary~~ Secretary meets with an applicant under this
20 subsection, the ~~secretary~~ Secretary shall provide the applicant in writing a
21 preliminary estimate of the costs to be assessed and the purpose of the funds.

1 ~~In the case of requests to pay costs under subdivision (a)(1)(B) of this section,~~
2 ~~the secretary shall be limited to a reimbursement of not more than \$50,000.00.~~

3 (d) The following apply to the authority established under subsection (a) of
4 this section:

5 (1)(A) The Secretary may assess costs under subdivisions (a)(1) and (2)
6 of this section to the applicant or applicants for a permit, license, certification,
7 or order only with the approval of the Governor. Costs assessed under
8 subdivision (a)(3) of this section shall not require approval of the Governor.

9 (2) ~~The secretary~~ Secretary may require reimbursement only of costs in
10 excess of \$3,000.00 ~~except as provided in subdivision (B) of this subdivision~~
11 ~~(1).~~

12 ~~(B) Where the secretary has requested reimbursement of~~
13 ~~programmatic expertise pursuant to subdivision (a)(1)(B) of this section. The~~
14 ~~secretary may require reimbursement only of costs in excess of \$3,000.00 or~~
15 ~~one half of the permit application fee assessed under section 2822 of this title,~~
16 ~~whichever is greater.~~

17 ~~(2)(3)~~ The Secretary may revise estimates previously noticed
18 as necessary from time to time during the progress of the work and shall notify
19 the applicant in writing of any revision.

20 ~~(3)(4)~~ The Secretary shall provide the applicant with a detailed
21 statement of a final assessment under this section showing the total amount of

1 money expended or contracted for in the work and directing the manner and
2 timing of payment by the applicant.

3 ~~(4)~~(5) All funds collected from applicants shall be paid into the ~~state~~
4 ~~treasury~~ State Treasury.

5 (e) The ~~secretary~~ Secretary may withhold a permit approval or suspend the
6 processing of a permit application for failure to pay reasonable costs imposed
7 under this subsection.

8 (f) An action or determination of the ~~secretary~~ Secretary under this section
9 shall constitute an act or decision of the ~~secretary~~ Secretary that may be
10 appealed in accordance with 10 V.S.A. § 8504.

11 * * *

12 Sec. 2. EFFECTIVE DATE

13 This act shall take effect on passage.