

SENATE BILL REPORT

SB 5881

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 27, 2007

Title: An act relating to water power license fees.

Brief Description: Modifying water power license fees.

Sponsors: Senators Poulsen, Delvin, Regala and Fraser; by request of Department of Ecology.

Brief History:

Committee Activity: Water, Energy & Telecommunications: 2/23/07, 2/27/07 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 5881 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Delvin, Fraser, Marr, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Holmquist and Morton.

Minority Report: That it be referred without recommendation.

Signed by Senator Honeyford, Ranking Minority Member.

Staff: Margaret King (786-7416)

Background: Most of the dams in Washington were built more than 50 years ago to provide electricity and flood control. Currently, 56 hydroelectric projects in Washington have licenses from the Federal Energy Regulatory Commission (FERC). In accordance with state law, owners of projects pay an annual hydropower fee which the state uses to pay for its stream gauging program. Currently, the annual power license fee is based upon the theoretical water power claimed under each and every separate claim to water. The fees have not been updated since 1929.

The Department of Ecology's (DOE) stream gauging program is run cooperatively with the U.S. Geological Survey (USGS), and is used as a water management tool. DOE pays for half the cost to install and maintain these gauges. USGS owns and operates the gauges and provides the funding for the remaining half. The hydropower fees fund gauges that collect information on stream flows at 36 locations. This information is used for decision-making

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

about water supplies, water rights, drought, climate change, flooding, and the setting and achieving of instream flows.

Every 35 to 50 years, the Federal Power Act requires that owners of hydropower projects get a new FERC license. Many of the hydropower projects were first licensed before adoption of the Clean Water Act, and are now up for re-licensing. A major part of licensing involves addressing environmental concerns not considered in previous licensing proceedings. The licensing process takes a minimum of five years, and FERC now requires that hydropower owners respond to new information throughout the life of the license, and manage the project accordingly. This approach requires oversight of license conditions, not only by FERC, but by DOE and the Department of Fish & Wildlife (DFW). As part of the FERC license, states must certify that hydropower projects meet state water quality standards. Each FERC license contains conditions to meet state water quality standards. Most of the dams in Washington were built before the clean water laws existed.

Summary of Bill: Water power fees are changed to allow DOE to revise the annual fee for the use of water by hydroelectric projects in the state. Authorization is given to the departments of Fish and Wildlife and Ecology to spend these funds on specific activities included in hydroelectric project licenses issued by the Federal Energy Regulation Committee (FERC) and on maintaining funding for essential stream flow gaging stations.

Section 1(1) would establish the first day of January of each year thereafter as the date for payment to the state of an annual license fee based upon the theoretical water power claimed under each and every separate claim to water according to the determined schedule.

Section 1(1)(a) would increase power license fees for projects in operation. The rate for each and every theoretical horsepower of capacity claimed up to and including 1,000 horsepower is raised from ten cents per horsepower to the new rate of 18 cents per horsepower. For each and every theoretical horsepower in excess of 1,000 horsepower, up to and including 10,000 horsepower, the rate is increased from two cents to the new rate of 3.6 cents per horsepower. For each and every theoretical horsepower in excess of 10,000 horsepower, the fee is increased from one cent to the new rate of 1.8 cents per horsepower.

DOE would adjust the rates enumerated in this section each year such that the total of fees collected will be in accordance with the fiscal growth factor (FGF) as provided by the Office of Financial Management.

Section 1(1)(b) would increase power license fees for FERC projects in operation. The rate for each and every theoretical horsepower of capacity claimed up to and including 1,000 horsepower, currently assessed at the rate of ten cents per horsepower is increased to the new rate of 35 cents per horsepower. The rate for each and every theoretical horsepower of capacity claimed up to and including 1,000 horsepower, is raised from ten cents to the new rate of 35 cents per horsepower. Each and every theoretical horsepower in excess of 1,000 horsepower, up to and including 10,000 horsepower, increased from two cents per horsepower to the new rate of seven cents per horsepower. For each and every theoretical horsepower in excess of 10,000 horsepower, the fee is increased from one cent per horsepower to the new rate of 3.5 cents per horsepower.

DOE is to adjust the rates enumerated in this section each year based on the FGF as provided by the Office of Financial Management.

Section 1(1)(c) would require DOE to submit a progress report to the Legislature prior to December 31, 2009, and biennially thereafter.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Water, Energy & Telecommunications): The provision related to certified low impact projects is removed and the fees are adjusted accordingly as follows: 35 cents per horsepower is changed to 32 cents per horsepower; seven is changed to six and four-tenths; and three and one-half is changed to three and two-tenths.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Additional revenues allow an increase of the DOE match for the cost share with the federal government for river gauges, support for five new staff positions to build partnerships around new FERC licensing process, and "adaptive management approach." The biannual report will serve as the basis for review of the program in ten years to see if it should continue. Fees have not been increased since 1929. Revision of the current fees is warranted. Fees will provide the resources that DOE needs.

CON: While we support DOE's effort to increase staffing, we don't believe that a flat fee approach is correct. The party being re-licensed should pay for the staff during that process. Low impact facilities should not be treated differently on the front end.

OTHER: The fee will be a five-fold increase for Grant County PUD. The addition of the language "settlement agreements" to Section 1(b) would resolve our concerns.

Persons Testifying: PRO: Joe Stohr, Department of Ecology; Lynn Best; Seattle City Light; Robert Mack, City of Tacoma; Mo McBroom, Washington Environmental Council; Miguel Perez-Gibson, NW Energy Coalition.

CON: Kathleen Collins, PacifiCor.

OTHER: Al Aldrich, Grant County PUD.