

SHB 1130 - S AMD 711  
By Senator Ericksen

ADOPTED 03/04/2016

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 90.16.050 and 2007 c 286 s 1 are each amended to  
4 read as follows:

5 (1) Every person, firm, private or municipal corporation, or  
6 association hereinafter called "claimant", claiming the right to the  
7 use of water within or bordering upon the state of Washington for  
8 power development, shall on or before the first day of January of  
9 each year pay to the state of Washington in advance an annual license  
10 fee, based upon the theoretical water power claimed under each and  
11 every separate claim to water according to the following schedule:

12 (a) For projects in operation: For each and every theoretical  
13 horsepower claimed up to and including one thousand horsepower, at  
14 the rate of eighteen cents per horsepower; for each and every  
15 theoretical horsepower in excess of one thousand horsepower, up to  
16 and including ten thousand horsepower, at the rate of three and six-  
17 tenths cents per horsepower; for each and every theoretical  
18 horsepower in excess of ten thousand horsepower, at the rate of one  
19 and eight-tenths cents per horsepower.

20 (b) For federal energy regulatory commission projects in  
21 operation that are subject to review for certification under section  
22 401 of the federal clean water act, the following fee schedule  
23 applies in addition to the fees in (a) of this subsection: For each  
24 theoretical horsepower of capacity up to and including one thousand  
25 horsepower, at the rate of thirty-two cents per horsepower; for each  
26 theoretical horsepower in excess of one thousand horsepower, up to  
27 and including ten thousand horsepower, at the rate of six and four-  
28 tenths cents per horsepower; for each theoretical horsepower in  
29 excess of ten thousand horsepower, at the rate of three and two-  
30 tenths cents per horsepower.

31 (c) To justify the appropriate use of fees collected under (b) of  
32 this subsection, the department of ecology shall submit a progress

1 report to the appropriate committees of the legislature prior to  
2 December 31, 2009, and biennially thereafter (~~until December 31,~~  
3 ~~2017~~)).

4 (i) The progress report will: (A) Describe how license fees and  
5 other funds used for the work of the licensing program were expended  
6 in direct support of the federal energy regulatory commission  
7 licensing process and license implementation during the current  
8 biennium, and expected workload and full-time equivalent employees  
9 for federal energy regulatory commission licensing in the next  
10 biennium. In order to increase the financial accountability of the  
11 licensing, relicensing, and license implementation program, the  
12 report must include the amount of licensing fees and program funds  
13 that were expended on licensing work associated with each hydropower  
14 project. This project-specific program expenditure list must detail  
15 the program costs and staff time associated with each hydropower  
16 project during the time period immediately prior to license issuance  
17 process, the program costs and staff time deriving from the issuance  
18 or reissuance of a license to each hydropower project, and the  
19 program costs and staff time associated with license implementation  
20 after the issuance or reissuance of a license to a hydropower  
21 project. This program cost and staff time information must be  
22 collected beginning July 1, 2016, and included in biennial reports  
23 addressing program years 2016 or later. The report must also include  
24 an estimate of the total workload, program costs, and staff time for  
25 work associated with either certification under section 401 of the  
26 federal clean water act or license implementation for federally  
27 licensed hydropower projects expected to occur in the next reporting  
28 period, or both. In addition, the report must provide sufficient  
29 information to determine that the fees charged are not for activities  
30 already performed by other state or federal agencies or tribes that  
31 have jurisdiction over a specific license requirement and that  
32 duplicative work and expense is avoided; (B) include any  
33 recommendations based on consultation with the departments of ecology  
34 and fish and wildlife, hydropower project operators, and other  
35 interested parties; and (C) recognize hydropower operators that  
36 exceed their environmental regulatory requirements.

37 (ii) The fees required in (b) of this subsection expire June 30,  
38 (~~2017~~) 2023. The biennial progress reports submitted by the  
39 department of ecology will serve as a record for considering the  
40 extension of the fee structure in (b) of this subsection.

1 (2) The following are exceptions to the fee schedule in  
2 subsection (1) of this section:

3 (a) For undeveloped projects, the fee shall be at one-half the  
4 rates specified for projects in operation; for projects partly  
5 developed and in operation the fees paid on that portion of any  
6 project that shall have been developed and in operation shall be the  
7 full annual license fee specified in subsection (1) of this section  
8 for projects in operation, and for the remainder of the power claimed  
9 under such project the fees shall be the same as for undeveloped  
10 projects.

11 (b) The fees required in subsection (1) of this section do not  
12 apply to any hydropower project owned by the United States.

13 (c) The fees required in subsection (1) of this section do not  
14 apply to the use of water for the generation of fifty horsepower or  
15 less.

16 (d) The fees required in subsection (1) of this section for  
17 projects developed by an irrigation district in conjunction with the  
18 irrigation district's water conveyance system shall be reduced by  
19 fifty percent to reflect the portion of the year when the project is  
20 not operable.

21 (e) Any irrigation district or other municipal subdivision of the  
22 state, developing power chiefly for use in pumping of water for  
23 irrigation, upon the filing of a statement showing the amount of  
24 power used for irrigation pumping, is exempt from the fees in  
25 subsection (1) of this section to the extent of the power used for  
26 irrigation pumping.

27 (3) In order to ensure accountability in the licensing,  
28 relicensing, and license implementation programs of the department of  
29 ecology and the department of fish and wildlife, the departments must  
30 implement the following administrative requirements:

31 (a)(i) Both the department of ecology and the department of fish  
32 and wildlife must be responsible for producing an annual work plan  
33 that addresses the work anticipated to be completed by each  
34 department associated with federal hydropower licensing and license  
35 implementation.

36 (ii) Both the department of ecology and the department of fish  
37 and wildlife must assign one employee to each licensed hydropower  
38 project to act as each department's designated licensing and  
39 implementation lead for a hydropower project. The responsibility  
40 assigned by each department to hydropower project licensing and

1 implementation leads must include resolving conflicts with the  
2 license applicant or license holder and the facilitation of  
3 department decision making related to license applications and  
4 license implementation for the particular hydropower project assigned  
5 to a licensing lead.

6 (b) The department of ecology and the department of fish and  
7 wildlife must host an annual meeting with parties interested in or  
8 affected by hydropower project licensing and the associated fees  
9 charged under this section. The purposes of the annual meeting must  
10 include soliciting information from interested parties related to the  
11 annual hydropower work plan required by (a) of this subsection and to  
12 the biennial progress report produced pursuant to subsection  
13 (1)(c)(i) of this section.

14 (c) Prior to the annual meeting required by (b) of this  
15 subsection, the department of fish and wildlife and the department of  
16 ecology must circulate a survey to hydropower licensees soliciting  
17 feedback on the responsiveness of department staff, clarity of staff  
18 roles and responsibilities in the hydropower licensing and  
19 implementation process, and other topics related to the  
20 professionalism and expertise of department staff assigned to  
21 hydropower project licensing projects. This survey must be designed  
22 by the department of fish and wildlife and the department of ecology  
23 after consulting with hydropower licensees and the results of the  
24 survey must be included in the biennial progress report produced  
25 pursuant to subsection (1)(c)(i) of this section. Prior to the annual  
26 meeting, the department of ecology and the department of fish and  
27 wildlife must analyze the survey results. The departments must  
28 present summarized information based on their analysis of survey  
29 results at the annual meeting for purposes of discussion with  
30 hydropower project licensees."

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31 On page 1, line 1 of the title, after "fees;" strike the  
32 remainder of the title and insert "and amending RCW 90.16.050."

EFFECT: Makes the following changes to the bill:

(1) Shortens the expiration date for hydropower licensing fees for federal energy regulatory commission projects from 2027 to 2023.

(2) Specifies that hydropower licensing fees for federal energy regulatory commission projects only apply to projects that are subject to review for state certification under the federal clean water act.

(3) Requires the biennial progress report on water power licensing fees to the legislature (biennial report) from the department of ecology to specify how fund expenditures directly supported the licensing and license implementation process.

(4) Requires the biennial report to include data on the staff time spent on specific hydropower projects in addition to the program costs for each project.

(5) Requires the biennial report to include an estimate of the total workload, program costs, and staff time for work associated with either certification under the federal clean water act or license implementation for federally licensed hydropower projects expected to occur in the next reporting period, or both.

(6) Requires the biennial report to include information that is sufficient to determine that the work of the departments of ecology and fish and wildlife is not duplicative of other entities' work and is directly associated with and efficiently meeting the state's obligations related to water quality certification under the federal clean water act.

(7) Removes the requirement that the departments of ecology and fish and wildlife both designate an employee as a program manager from hydropower licensing, relicensing, and license implementation.

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