
SUBSTITUTE HOUSE BILL 1130

State of Washington

64th Legislature

2016 Regular Session

By House Environment (originally sponsored by Representatives Fey, Short, Tharinger, Fitzgibbon, and Gregerson; by request of Department of Ecology and Department of Fish and Wildlife)

READ FIRST TIME 01/21/16.

1 AN ACT Relating to water power license fees; and amending RCW
2 90.16.050.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

1 (b) For federal energy regulatory commission projects in
2 operation, the following fee schedule applies in addition to the fees
3 in (a) of this subsection: For each theoretical horsepower of
4 capacity up to and including one thousand horsepower, at the rate of
5 thirty-two cents per horsepower; for each theoretical horsepower in
6 excess of one thousand horsepower, up to and including ten thousand
7 horsepower, at the rate of six and four-tenths cents per horsepower;
8 for each theoretical horsepower in excess of ten thousand horsepower,
9 at the rate of three and two-tenths cents per horsepower.

10 (c) To justify the appropriate use of fees collected under (b) of
11 this subsection, the department of ecology shall submit a progress
12 report to the appropriate committees of the legislature prior to
13 December 31, 2009, and biennially thereafter (~~until December 31,~~
14 ~~2017~~)).

15 (i) The progress report will: (A) Describe how license fees and
16 other funds used for the work of the licensing program were expended
17 in the federal energy regulatory commission licensing process during
18 the current biennium, and expected workload and full-time equivalent
19 employees for federal energy regulatory commission licensing in the
20 next biennium. In order to increase the financial accountability of
21 the licensing, relicensing, and license implementation program, the
22 report must include the amount of licensing fees and program funds
23 that were expended on licensing work associated with each hydropower
24 project. This project-specific program expenditure list must detail
25 the program costs associated with each hydropower project during the
26 time period immediately prior to license issuance process, the
27 program costs deriving from the issuance or reissuance of a license
28 to each hydropower project, and the program costs associated with
29 license implementation after the issuance or reissuance of a license
30 to a hydropower project. This program cost information must be
31 collected beginning July 1, 2016, and included in biennial reports
32 addressing program years 2016 or later; (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~~) 2027. 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 designate an employee as the manager of each
33 department's hydropower licensing, relicensing, and license
34 implementation program. The program manager designed by each
35 department must be responsible for approving an annual work plan that
36 addresses the work anticipated to be completed by each department's
37 hydropower licensing and license implementation program.

38 (ii) Both the department of ecology and the department of fish
39 and wildlife must assign one employee to each licensed hydropower
40 project to act as each department's designated licensing and

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

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

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

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