

HOUSE BILL REPORT

EHB 1931

As Passed Legislature

Title: An act relating to sustaining hydropower license fees.

Brief Description: Sustaining hydropower license fees.

Sponsors: Representative Fey; by request of Department of Ecology.

Brief History:

Committee Activity:

Appropriations: 1/25/22, 2/1/22 [DP].

Floor Activity:

Passed House: 2/15/22, 95-2.

Passed Senate: 3/4/22, 48-0.

Passed Legislature.

Brief Summary of Engrossed Bill

- Extends the expiration date of a fee charged to water power generation facilities licensed by the Federal Energy Regulatory Commission from June 30, 2023, to June 30, 2029.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 11 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Boehnke, Chandler, Dye, Hoff, Jacobsen, Rude, Schmick and Steele.

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

Minority Report: Without recommendation. Signed by 2 members: Representatives MacEwen, Assistant Ranking Minority Member; Harris.

Staff: Dan Jones (786-7118).

Background:

The Department of Ecology (ECY) issues Clean Water Act water quality certifications to hydroelectric dam operators licensed by the Federal Energy Regulatory Commission (FERC). After the FERC license and water quality certificate have been issued for a project, the water quality protection criteria are monitored, and permit condition compliance is overseen by the ECY and the Washington Department of Fish and Wildlife (WDFW).

Most claimants to water intended to be used for power development are required to pay an annual fee to the ECY, which is deposited into the Reclamation Account. The fees for water power development are based on a two-step model that considers theoretical horsepower generated. The first step is the base fee paid by all water power claimants. Base fees are calculated using the following formula:

- Facilities that generate between 51 and 1,000 horsepower pay 18 cents per horsepower.
- Facilities that generate between 1,001 and 10,000 horsepower pay 3.6 cents per horsepower.
- Facilities that generate more than 10,000 horsepower pay 1.8 cents per horsepower.

In addition to the base fee, all water power generation facilities that are required to be licensed by the FERC must, until June 30, 2017, pay an additional fee. The additional fees are calculated using the following formula:

- Facilities that generate between 51 and 1,000 horsepower pay 32 cents per horsepower.
- Facilities that generate between 1,001 and 10,000 horsepower pay 6.4 cents per horsepower.
- Facilities that generate more than 10,000 horsepower pay 3.2 cents per horsepower.

The base fee and the second fee paid by facilities licensed by the FERC are additive until June 30, 2023, when the additional fee expires and all facilities are only required to pay the base fee. These funds are used by the ECY and the WDFW to assist power generation facilities in meeting environmental regulatory requirements and other requirements associated with the FERC licensing process.

The ECY submits a biennial report to the Legislature describing how license fees were spent on the ECY and the WDFW's water quality certification work for the FERC-licensed hydropower projects.

Summary of Engrossed Bill:

The secondary fee, paid by FERC-licensed water power generation facilities expires on June 30, 2029, rather than June 30, 2023.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The work that the WDFW and Department of Ecology do with energy utilities is vital to ensure dams minimize their impacts to salmon and water flows. The fee paid by Federal Energy Regulatory Commission-licensed hydropower facilities (FERC fee) made permanent in this bill helps modernize dam operations. The bill would allow the state to continue generating clean power and support salmon recovery. Washington has more hydropower generation than any other state, but there are also impacts to natural resources, and agencies play a critical role in mitigating those impacts. The FERC fee is working as intended.

(Opposed) The state has enough taxes and fees already. Having a sunset date for the FERC fee, as in current law, improves the accountability of all stakeholders. Discussions of the FERC fee sunsets over the years have allowed further Public Utility District participation. The FERC fee is not equitable, as some fee payers pay comparatively more than they receive in agency staff time. Public Utility Districts pay the FERC fee even when relicensing is far into the future. The FERC fee is important for the retention of Ecology staff but should be extended rather than made permanent.

Persons Testifying: (In support) Michael Garrity, Washington Department of Fish and Wildlife; David Giglio, Washington State Department of Ecology Water Quality Program; Tom O'Keefe, American Whitewater; Bridget Moran, American Rivers; and Alexei Calambokidis, Trout Unlimited.

(Opposed) Laurie Layne; Dave Arbaugh, Chelan Public Utility District; Bill Clarke, Grant County Public Utility District; Dave Warren, Douglas County Public Utility District; and John Rothlin, Avista.

Persons Signed In To Testify But Not Testifying: None.