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SENATE BILL 5881

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Poulsen, Delvin, Regala and Fraser; by request of  
Department of Ecology

Read first time 02/05/2007. Referred to Committee on Water, Energy &  
Telecommunications.

1            AN ACT Relating to water power license fees; and amending RCW  
2 90.16.050 and 90.16.090.

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

4            **Sec. 1.** RCW 90.16.050 and 1929 c 105 s 1 are each amended to read  
5 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 power  
9 development, shall on or before the first day of (~~July, 1929, and on~~  
10 ~~or before the first day of~~) January of each year (~~thereafter~~) pay to  
11 the state of Washington in advance an annual license fee, based upon  
12 the theoretical water power claimed under each and every separate claim  
13 to water according to the following schedule:

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

1 horsepower in excess of ten thousand horsepower, at the rate of one and  
2 eight-tenths cents per horsepower. The department of ecology shall, in  
3 keeping with the rate structure under this subsection (1)(a),  
4 biennially increase the rates enumerated in this subsection (1)(a) in  
5 accordance with the fiscal growth factor as provided by the office of  
6 financial management.

7 (b) For federal energy regulatory commission projects in operation,  
8 the following fee schedule applies in addition to the fees in (a) of  
9 this subsection: For each theoretical horsepower of capacity up to and  
10 including one thousand horsepower, at the rate of thirty-five cents per  
11 horsepower; for each theoretical horsepower in excess of one thousand  
12 horsepower, up to and including ten thousand horsepower, at the rate of  
13 seven cents per horsepower; for each theoretical horsepower in excess  
14 of ten thousand horsepower, at the rate of three and one-half cents per  
15 horsepower. For projects certified as low-impact hydropower by the  
16 low-impact hydropower institute and projects with approved habitat  
17 conservation plans for any portion of the previous year, the fee in  
18 this subsection (1)(b) must be set at eighty percent of the rates  
19 specified in this subsection (1)(b). The department of ecology shall,  
20 in keeping with the rate structure in this subsection (1)(b),  
21 biennially adjust the rates enumerated in this subsection (1)(b) so  
22 that the biennial total of fees collected under this subsection (1)(b)  
23 increases in accordance with the fiscal growth factor as provided by  
24 the office of financial management.

25 (c) To justify the appropriate use of fees collected under (b) of  
26 this subsection, the department of ecology shall submit a progress  
27 report to the appropriate committees of the legislature prior to  
28 December 31, 2009, and biennially thereafter.

29 (i) The progress report will: (A) Describe how license fees were  
30 expended in the federal energy regulatory commission licensing process  
31 during the current biennium, and expected workload and full-time  
32 equivalent employees for federal energy regulatory commission licensing  
33 in the next biennium; (B) include any recommendations based on  
34 consultation with the departments of ecology and fish and wildlife,  
35 hydropower project operators, and other interested parties; and (C)  
36 recognize hydropower operators that exceed their environmental  
37 regulatory requirements.

1        (ii) The fees required in (b) of this subsection expire June 30,  
2 2017. The biennial progress reports submitted by the department of  
3 ecology will serve as a record for considering the extension of the fee  
4 structure in (b) of this subsection.

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

7        (a) For undeveloped projects, the fee shall be at one-half the  
8 rates specified for projects in operation; for projects partly  
9 developed and in operation the fees paid on that portion of any project  
10 that shall have been developed and in operation shall be the full  
11 annual license fee ((above)) specified in subsection (1) of this  
12 section for projects in operation, and for the remainder of the power  
13 claimed under such project the fees shall be the same as for  
14 undeveloped projects. ((PROVIDED, That upon the filing of statement,  
15 as hereinafter required, by the United States or the state claiming the  
16 right to the use of water to any extent for the generation of power, or  
17 any other claimant to the use of water for the generation of fifty  
18 horsepower, or less, shall be exempted from the payment of all fees  
19 hereinafter required; and PROVIDED FURTHER, That))

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

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

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

30        (e) Any irrigation district or other municipal subdivision of the  
31 state, developing power chiefly for use in pumping of water for  
32 irrigation, ((may)) upon the filing of a statement((7)) showing the  
33 amount of power used for irrigation pumping, ((be exempted)) is exempt  
34 from the fees in subsection (1) of this section to the extent of the  
35 power ((so)) used ((from the payment of the annual license fee herein  
36 provided)) for irrigation pumping.

1       **Sec. 2.** RCW 90.16.090 and 1988 c 127 s 79 are each amended to read  
2 as follows:

3       (1) All fees paid under provisions of this chapter, shall be  
4 credited by the state treasurer to the reclamation ((~~revolving~~))  
5 account created in RCW 89.16.020 and subject to legislative  
6 appropriation, be allocated and expended by the director of ecology  
7 for:

8       (a) Investigations and surveys of natural resources in cooperation  
9 with the federal government, or independently thereof, including stream  
10 gaging, hydrographic, topographic, river, underground water, mineral  
11 and geological surveys(~~(: PROVIDED, That in any one biennium all said~~  
12 expenditures shall not exceed total receipts from said power license  
13 fees collected during said biennium: AND PROVIDED FURTHER, That the  
14 portion of money allocated by said director to be expended in  
15 cooperation with the federal government shall be contingent upon the  
16 federal government making available equal amounts for such  
17 investigations and surveys)); and

18       (b) Expenses associated with staff at the departments of ecology  
19 and fish and wildlife working on federal energy regulatory commission  
20 relicensing and license implementation.

21       (2) Unless otherwise required by the omnibus biennial  
22 appropriations acts, the expenditures for these purposes must be  
23 proportional to the revenues collected under RCW 90.16.050(1).

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