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**ENGROSSED HOUSE BILL 1931**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Representative Fey; by request of Department of Ecology

Read first time 01/12/22. Referred to Committee on Appropriations.

1       AN ACT Relating to sustaining hydropower license fees; and  
2 amending RCW 90.16.050.

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

4       **Sec. 1.** RCW 90.16.050 and 2016 c 75 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  
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 that are subject to review for certification under section  
3 401 of the federal clean water act, the following fee schedule  
4 applies in addition to the fees in (a) of this subsection: For each  
5 theoretical horsepower of capacity up to and including one thousand  
6 horsepower, at the rate of thirty-two cents per horsepower; for each  
7 theoretical horsepower in excess of one thousand horsepower, up to  
8 and including ten thousand horsepower, at the rate of six and four-  
9 tenths cents per horsepower; for each theoretical horsepower in  
10 excess of ten thousand horsepower, at the rate of three and two-  
11 tenths cents per horsepower.

12      (c) To justify the appropriate use of fees collected under (b) of  
13 this subsection, the department of ecology shall submit a progress  
14 report to the appropriate committees of the legislature prior to  
15 December 31, 2009, and biennially thereafter. ((i)) The progress  
16 report will: ((A)) (i) Describe how license fees and other funds  
17 used for the work of the licensing program were expended in direct  
18 support of the federal energy regulatory commission licensing process  
19 and license implementation during the current biennium, and expected  
20 workload and full-time equivalent employees for federal energy  
21 regulatory commission licensing in the next biennium. In order to  
22 increase the financial accountability of the licensing, relicensing,  
23 and license implementation program, the report must include the  
24 amount of licensing fees and program funds that were expended on  
25 licensing work associated with each hydropower project. This project-  
26 specific program expenditure list must detail the program costs and  
27 staff time associated with each hydropower project during the time  
28 period immediately prior to license issuance process, the program  
29 costs and staff time deriving from the issuance or reissuance of a  
30 license to each hydropower project, and the program costs and staff  
31 time associated with license implementation after the issuance or  
32 reissuance of a license to a hydropower project. This program cost  
33 and staff time information must be collected beginning July 1, 2016,  
34 and included in biennial reports addressing program years 2016 or  
35 later. The report must also include an estimate of the total  
36 workload, program costs, and staff time for work associated with  
37 either certification under section 401 of the federal clean water act  
38 or license implementation for federally licensed hydropower projects  
39 expected to occur in the next reporting period, or both. In addition,  
40 the report must provide sufficient information to determine that the

fees charged are not for activities already performed by other state or federal agencies or tribes that have jurisdiction over a specific license requirement and that duplicative work and expense is avoided; ((B)) (ii) include any recommendations based on consultation with the departments of ecology and fish and wildlife, hydropower project operators, and other interested parties; and ((C)) (iii) recognize hydropower operators that exceed their environmental regulatory requirements.

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

(d) The fees required in (b) of this subsection expire June 30, 2029. The biennial program reports submitted by the department of ecology will serve as a record for considering the extension of the fee structure in (b) of this subsection.

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

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

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

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

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

(e) Any irrigation district or other municipal subdivision of the state, developing power chiefly for use in pumping of water for irrigation, upon the filing of a statement showing the amount of power used for irrigation pumping, is exempt from the fees in

1 subsection (1) of this section to the extent of the power used for  
2 irrigation pumping.

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

7 (a)(i) Both the department of ecology and the department of fish  
8 and wildlife must be responsible for producing an annual work plan  
9 that addresses the work anticipated to be completed by each  
10 department associated with federal hydropower licensing and license  
11 implementation.

12 (ii) Both the department of ecology and the department of fish  
13 and wildlife must assign one employee to each licensed hydropower  
14 project to act as each department's designated licensing and  
15 implementation lead for a hydropower project. The responsibility  
16 assigned by each department to hydropower project licensing and  
17 implementation leads must include resolving conflicts with the  
18 license applicant or license holder and the facilitation of  
19 department decision making related to license applications and  
20 license implementation for the particular hydropower project assigned  
21 to a licensing lead.

22 (b) The department of ecology and the department of fish and  
23 wildlife must host an annual meeting with parties interested in or  
24 affected by hydropower project licensing and the associated fees  
25 charged under this section. The purposes of the annual meeting must  
26 include soliciting information from interested parties related to the  
27 annual hydropower work plan required by (a) of this subsection and to  
28 the biennial progress report produced pursuant to subsection (1)(c)  
29 ((i)) of this section.

30 (c) Prior to the annual meeting required by (b) of this  
31 subsection, the department of fish and wildlife and the department of  
32 ecology must circulate a survey to hydropower licensees soliciting  
33 feedback on the responsiveness of department staff, clarity of staff  
34 roles and responsibilities in the hydropower licensing and  
35 implementation process, and other topics related to the  
36 professionalism and expertise of department staff assigned to  
37 hydropower project licensing projects. This survey must be designed  
38 by the department of fish and wildlife and the department of ecology  
39 after consulting with hydropower licensees and the results of the  
40 survey must be included in the biennial progress report produced

1 pursuant to subsection (1)(c)((~~i~~)) of this section. Prior to the  
2 annual meeting, the department of ecology and the department of fish  
3 and wildlife must analyze the survey results. The departments must  
4 present summarized information based on their analysis of survey  
5 results at the annual meeting for purposes of discussion with  
6 hydropower project licensees.

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