

SENATE BILL REPORT

SSB 5881

As Amended by House, April 10, 2007

Title: An act relating to water power license fees.

Brief Description: Modifying water power license fees.

Sponsors: Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Poulsen, Delvin, Regala and Fraser; by request of Department of Ecology).

Brief History:

Committee Activity: Water, Energy & Telecommunications: 2/23/07, 2/27/07 [DPS, DNP, w/oRec].

Passed Senate: 3/10/07, 39-9.

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 5881 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Delvin, Fraser, Marr, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Holmquist and Morton.

Minority Report: That it be referred without recommendation.

Signed by Senator Honeyford, Ranking Minority Member.

Staff: Jan Odano (786-7486)

Background: Most of the dams in Washington were built more than 50 years ago to provide electricity and flood control. Currently, 56 hydroelectric projects in Washington have licenses from the Federal Energy Regulatory Commission (FERC). In accordance with state law, owners of projects pay an annual hydropower fee, which the state uses to pay for its stream gauging program. Currently, the annual power license fee is based upon the theoretical water power claimed under each and every separate claim to water. The fees have not been updated since 1929.

The Department of Ecology's (DOE) stream gauging program is run cooperatively with the U.S. Geological Survey (USGS), and is used as a water management tool. DOE pays for half the cost to install and maintain these gauges. USGS owns and operates the gauges and provides the funding for the remaining half. The hydropower fees fund gauges that collect

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information on stream flows at 36 locations. This information is used for decision-making about water supplies, water rights, drought, climate change, flooding, and setting and achieving of instream flows.

The Federal Power Act requires that owners of hydropower projects renew FERC licenses every 35 to 50 years. Many of the hydropower projects and dams were first licensed before adoption of the Clean Water Act. A major part of licensing involves addressing environmental concerns, that were not previously considered. The licensing process takes a minimum of five years, and FERC requires that hydropower owners respond to new information throughout the life of the license, and manage the project accordingly. This approach requires oversight of license conditions by FERC, DOE, and Department of Fish & Wildlife (DFW). As part of the FERC license conditions, states must certify that hydropower projects meet state water quality standards.

Summary of Substitute Bill: DOE will collect an annual fee on water power projects and FERC projects in operation. Annual license fees are due the first day of January of each year, based upon the theoretical water power claimed under each and every separate claim to water.

For projects in operation, the following rates apply:

- up to and including 1,000 horsepower, the rate is raised from ten cents per horsepower to the new rate of 18 cents per horsepower;
- in excess of 1,000 horsepower, up to and including 10,000 horsepower, the rate is increased from two cents to the new rate of 3.6 cents; and
- in excess of 10,000 horsepower, the fee is increased from one cent to the new rate of 1.8 cents.

For FERC projects in operation, the following rates also apply:

- up to and including 1,000 horsepower, the rate is raised from ten cents per horsepower to the new rate of 32 cents per horsepower;
- in excess of 1,000 horsepower, up to and including 10,000 horsepower, the rate is increased from two cents to the new rate of 6.4 cents; and
- in excess of 10,000 horsepower, the fee is increased from one cent per horsepower to the new rate of 3.2 cents per horsepower.

The fees for FERC projects expire June 30, 2017.

DOE must adjust the rates biennially such that the total of fees collected will be in accordance with the fiscal growth factor (FGF) as provided by Office of Financial Management (OFM).

The fees do not apply to projects that generate 50 horsepower or less or to hydropower projects owned by the United States. Projects developed by an irrigation district in conjunction with the district's water conveyance system will have their fees reduced by 50 percent to reflect the portion of the year the project is not operable.

DOE must submit a biennial progress report to the Legislature beginning December 31, 2009. The progress report must describe how license fees were used in the FERC licensing process, expected workload, and include recommendations from DOE, DFW, hydropower project operators and interested parties, and recognize hydropower operators that exceed their environmental regulatory requirements.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Additional revenues allow an increase of the DOE match for the cost share with the federal government for river gauges, support for five new staff positions to build partnerships around new FERC licensing process, and "adaptive management approach." The biannual report will serve as the basis for review of the program in ten years to see if it should continue. Fees have not been increased since 1929. Revision of the current fees is warranted. Fees will provide the resources that DOE needs.

CON: While we support DOE's effort to increase staffing, we don't believe that a flat fee approach is correct. The party being relicensed should pay for the staff during that process. Low impact facilities should not be treated differently on the front end.

OTHER: The fee will be a five-fold increase for Grant County PUD. The addition of the language "settlement agreements" to Section 1(b) would resolve our concerns.

Persons Testifying: PRO: Joe Stohr, DOE; Lynn Best; Seattle City Light; Robert Mack, City of Tacoma; Mo McBroom, Washington Environmental Council; Miguel Perez-Gibson, NW Energy Coalition.

CON: Kathleen Collins, PacifiCor.

OTHER: Al Aldrich, Grant County PUD.

House Amendment(s): Eliminates the requirement for DOE to adjust the license fee rates in accordance with the fiscal growth factor as provided by OFM.