
SUBSTITUTE SENATE BILL 5881

State of Washington

60th Legislature

2007 Regular Session

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

READ FIRST TIME 02/28/07.

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-two 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 six and four-tenths cents per horsepower; for each theoretical
14 horsepower in excess of ten thousand horsepower, at the rate of three
15 and two-tenths cents per horsepower. The department of ecology shall,
16 in keeping with the rate structure in this subsection (1)(b),
17 biennially adjust the rates enumerated in this subsection (1)(b) so
18 that the biennial total of fees collected under this subsection (1)(b)
19 increases in accordance with the fiscal growth factor as provided by
20 the office of financial management.

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

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

34 (ii) The fees required in (b) of this subsection expire June 30,
35 2017. The biennial progress reports submitted by the department of
36 ecology will serve as a record for considering the extension of the fee
37 structure in (b) of this subsection.

1 (2) The following are exceptions to the fee schedule in subsection
2 (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 project
6 that shall have been developed and in operation shall be the full
7 annual license fee ((above)) specified in subsection (1) of this
8 section for projects in operation, and for the remainder of the power
9 claimed under such project the fees shall be the same as for
10 undeveloped projects. ((PROVIDED, That upon the filing of statement,
11 as hereinafter required, by the United States or the state claiming the
12 right to the use of water to any extent for the generation of power, or
13 any other claimant to the use of water for the generation of fifty
14 horsepower, or less, shall be exempted from the payment of all fees
15 hereinafter required; and PROVIDED FURTHER, That))

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

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

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

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

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

35 (1) All fees paid under provisions of this chapter, shall be
36 credited by the state treasurer to the reclamation ((revolving))

1 account created in RCW 89.16.020 and subject to legislative
2 appropriation, be allocated and expended by the director of ecology
3 for:

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

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

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

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