

SHB 1130 - H AMD 695

By Representative Manweller

NOT ADOPTED 02/16/2016

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 90.16.050 and 2007 c 286 s 1 are each amended to  
4 read as follows:

5 (1) Every person, firm, private or municipal corporation, or  
6 association hereinafter called "claimant", claiming the right to the  
7 use of water within or bordering upon the state of Washington for  
8 power development, shall on or before the first day of January of  
9 each year pay to the state of Washington in advance an annual license  
10 fee, based upon the theoretical water power claimed under each and  
11 every separate claim to water according to the following schedule:

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

20 (b) For federal energy regulatory commission projects in  
21 operation that require certification under section 401 of the federal  
22 clean water act, the following fee schedule applies in addition to  
23 the fees in (a) of this subsection: For each theoretical horsepower  
24 of capacity up to and including one thousand horsepower, at the rate  
25 of thirty-two cents per horsepower; for each theoretical horsepower  
26 in excess of one thousand horsepower, up to and including ten  
27 thousand horsepower, at the rate of six and four-tenths cents per  
28 horsepower; for each theoretical horsepower in excess of ten thousand  
29 horsepower, at the rate of three and two-tenths cents per horsepower.

30 (c) To justify the appropriate use of fees collected under (b) of  
31 this subsection, the department of ecology shall submit a progress  
32 report to the appropriate committees of the legislature prior to

1 December 31, 2009, and biennially thereafter (~~until December 31,~~  
2 ~~2017~~)).

3 (i) The progress report will: (A) Describe how license fees and  
4 other funds used for the work of the licensing program were expended  
5 in direct support of the federal energy regulatory commission  
6 licensing process and license implementation during the current  
7 biennium, and expected workload and full-time equivalent employees  
8 for federal energy regulatory commission licensing in the next  
9 biennium. In order to increase the financial accountability of the  
10 licensing, relicensing, and license implementation program, the  
11 report must include the amount of licensing fees and program funds  
12 that were expended on licensing work associated with each hydropower  
13 project. This project-specific program expenditure list must detail  
14 the program costs and staff time associated with each hydropower  
15 project during the time period immediately prior to license issuance  
16 or reissuance of a license to each hydropower project, and the  
17 program costs and staff time associated with license implementation  
18 after the issuance or reissuance of a license to a hydropower  
19 project. This program cost and staff time information must be  
20 collected beginning July 1, 2016, and included in biennial reports  
21 addressing program years 2016 or later. In addition, the report must  
22 provide sufficient information to determine that the fees charged are  
23 not for activities already performed by other state or federal  
24 agencies or tribes that have jurisdiction over a specific license  
25 requirement and that duplicative work and expense is avoided.  
26 Finally, the report must show that the work performed and allocated  
27 to a project is directly associated with the section 401 clean water  
28 act certification or implementation for the project and that the  
29 essential functions of the state's obligations under section 401 of  
30 the clean water act are being met in an efficient manner for each  
31 hydropower project; (B) include any recommendations based on  
32 consultation with the departments of ecology and fish and wildlife,  
33 hydropower project operators, and other interested parties; and (C)  
34 recognize hydropower operators that exceed their environmental  
35 regulatory requirements.

36  
37 (ii) Based on the actual cost and work by project as provided in  
38 prior reports described in (c)(i) of this subsection, and the  
39 forecasted work by project, the 2019 biennial report must provide a  
40 recommendation to the appropriate committees of the legislature to

1 modify the fee collection structure in (b) of this subsection, if  
2 necessary, to allocate the fees collected going forward  
3 proportionally to the hydropower projects based on the actual costs  
4 and staff time required by those projects.

5 (iii) The fees required in (b) of this subsection expire June 30,  
6 ((2017)) 2027. The biennial progress reports submitted by the  
7 department of ecology will serve as a record for considering the  
8 extension of the fee structure in (b) of this subsection.

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

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

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

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

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

29 (e) Any irrigation district or other municipal subdivision of the  
30 state, developing power chiefly for use in pumping of water for  
31 irrigation, upon the filing of a statement showing the amount of  
32 power used for irrigation pumping, is exempt from the fees in  
33 subsection (1) of this section to the extent of the power used for  
34 irrigation pumping.

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

39 (a)(i) Both the department of ecology and the department of fish  
40 and wildlife must designate an employee as the manager of each

1 department's hydropower licensing, relicensing, and license  
2 implementation program. The program manager designed by each  
3 department must be responsible for approving an annual work plan that  
4 addresses the work anticipated to be completed by each department's  
5 hydropower licensing and license implementation program.

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

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

24 (c) Prior to the annual meeting each year required by (b) of this  
25 subsection, the department of fish and wildlife and the department of  
26 ecology must circulate a survey to hydropower licensees soliciting  
27 feedback on the responsiveness of department staff, clarity of staff  
28 roles and responsibilities in the hydropower licensing and  
29 implementation process, and other topics related to the  
30 professionalism and expertise of department staff assigned to  
31 hydropower project licensing projects. This survey must be designed  
32 by the department of fish and wildlife and the department of ecology  
33 after consulting with hydropower licensees and the results of the  
34 survey must be included in the biennial progress report produced  
35 pursuant to subsection (1)(c)(i) of this section. Prior to the annual  
36 meeting, the department of ecology and the department of fish and  
37 wildlife must analyze the survey results. The departments must  
38 present summarized information based on their analysis of survey  
39 results at the annual meeting for purposes of discussion with  
40 hydropower project licensees."

EFFECT: Makes the following changes to the bill:

(1) Specifies that hydropower licensing fees for federal energy regulatory commission projects only apply to projects that require state certification under the federal clean water act.

(2) Requires the biennial progress report on water power licensing fees to the legislature (biennial report) from the department of ecology to specify how fund expenditures directly supported the licensing and license implementation process.

(3) Requires the biennial report to include data on the staff time spent on specific hydropower projects in addition to the program costs for each project.

(4) Requires the biennial report to include information that is sufficient to determine that the work of the departments of ecology and fish and wildlife is not duplicative of other entities' work and is directly associated with and efficiently meeting the state's obligations related to water quality certification under the federal clean water act.

(5) Requires the 2019 biennial report to include recommendations to the legislature on modifications to hydropower project license fees based on costs and staff time devoted to projects.

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