

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

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.

--- END ---