

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1130

Chapter 75, Laws of 2016

64th Legislature
2016 Regular Session

WATER USE FOR POWER GENERATION--LICENSING--ACCOUNTABILITY

EFFECTIVE DATE: 6/9/2016

Passed by the House March 8, 2016
Yeas 80 Nays 16

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 4, 2016
Yeas 46 Nays 3

BRAD OWEN

President of the Senate

Approved March 31, 2016 10:34 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1130** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 1, 2016

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1130

AS AMENDED BY THE SENATE

Passed Legislature - 2016 Regular Session

State of Washington 64th Legislature 2016 Regular Session

By House Environment (originally sponsored by Representatives Fey, Short, Tharinger, Fitzgibbon, and Gregerson; by request of Department of Ecology and Department of Fish and Wildlife)

READ FIRST TIME 01/21/16.

1 AN ACT Relating to water power license fees; and amending RCW
2 90.16.050.

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

4 **Sec. 1.** RCW 90.16.050 and 2007 c 286 s 1 are each amended to
5 read 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 (~~until December 31,~~
16 ~~2017~~)).

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

1 period, or both. In addition, the report must provide sufficient
2 information to determine that the fees charged are not for activities
3 already performed by other state or federal agencies or tribes that
4 have jurisdiction over a specific license requirement and that
5 duplicative work and expense is avoided; (B) include any
6 recommendations based on consultation with the departments of ecology
7 and fish and wildlife, hydropower project operators, and other
8 interested parties; and (C) recognize hydropower operators that
9 exceed their environmental regulatory requirements.

10 (ii) The fees required in (b) of this subsection expire June 30,
11 ((2017)) 2023. The biennial progress reports submitted by the
12 department of ecology will serve as a record for considering the
13 extension of the fee structure in (b) of this subsection.

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

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

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

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

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

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

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

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

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

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

28 (c) Prior to the annual meeting required by (b) of this
29 subsection, the department of fish and wildlife and the department of
30 ecology must circulate a survey to hydropower licensees soliciting
31 feedback on the responsiveness of department staff, clarity of staff
32 roles and responsibilities in the hydropower licensing and
33 implementation process, and other topics related to the
34 professionalism and expertise of department staff assigned to
35 hydropower project licensing projects. This survey must be designed
36 by the department of fish and wildlife and the department of ecology
37 after consulting with hydropower licensees and the results of the
38 survey must be included in the biennial progress report produced
39 pursuant to subsection (1)(c)(i) of this section. Prior to the annual
40 meeting, the department of ecology and the department of fish and

1 wildlife must analyze the survey results. The departments must
2 present summarized information based on their analysis of survey
3 results at the annual meeting for purposes of discussion with
4 hydropower project licensees.

Passed by the House March 8, 2016.

Passed by the Senate March 4, 2016.

Approved by the Governor March 31, 2016.

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