

HOUSE BILL REPORT

HB 2917

*As Reported By House Committee on:
Energy & Utilities*

Title: An act relating to water resources.

Brief Description: Limiting state regulatory authority over federally licensed hydro projects.

Sponsor(s): Representatives Grant, May, Cooper and Miller.

Brief History:

Reported by House Committee on:
Energy & Utilities, February 7, 1992, DPS.

**HOUSE COMMITTEE ON
ENERGY & UTILITIES**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Grant, Chair; H. Myers, Vice Chair; May, Ranking Minority Member; Hochstatter, Assistant Ranking Minority Member; Bray; Casada; Cooper; R. Fisher; Jacobsen; Miller; and Rayburn.

Staff: Harry Reinert (786-7110).

Background:

The Department of Ecology (Ecology) has authority over many aspects of water resources in the state, including a number of issues relating to the construction of dams in state waters. Ecology is required to inspect all dams to assure their safety and to set stream flows to protect against floods. The proponent of a dam must submit its plans to Ecology prior to construction for a review of the project's safety.

The Federal Energy Regulatory Commission (FERC) has the federal responsibility over hydropower facilities. Most hydropower facilities are subject to FERC jurisdiction and must obtain a license from FERC. Some very small projects may be exempt from FERC jurisdiction. Under federal law, FERC has exclusive jurisdiction and it may preempt state law. FERC includes a dam safety component as part of its licensing process.

Summary of Substitute Bill: The Department of Ecology's authority to conduct safety reviews and inspections on dams does not extend to any project which is subject to the federal power act, unless the Federal Energy Regulatory Commission and the department agree otherwise or unless Congress gives this authority to the states. The department is not prohibited from participating in the commission's review process or from accompanying the commission on its inspections of facilities licensed by the commission.

Substitute Bill Compared to Original Bill: The original bill would have prohibited the department from engaging in any activities relating to dam safety for hydropower facilities under the jurisdiction of the federal government. The substitute bill allows the department to participate in federal proceedings and to exercise authority granted by the federal government over federally licensed facilities. The original bill also contained provisions amending the goals of the comprehensive hydropower plan and extending the date for submission of the plan to the Legislature. These provisions have been deleted.

Fiscal Note: Not requested.

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

Testimony For: The Federal Energy Regulatory Commission has exclusive jurisdiction over hydropower dams. The Department of Ecology's efforts to involve itself in safety inspections of these federally licensed facilities merely duplicates federal activities and, in some cases, adds unnecessary costs and delays to the construction of these projects.

Testimony Against: The Department of Ecology has provided important advice to the Federal Energy Regulatory Commission. In some instances it has discovered serious design flaws that might not otherwise have been found. The bill as introduced goes far beyond the stated intent and appears to prohibit any state involvement with the federal licensing process.

Witnesses: Betty Tabbut, Washington Environmental Council (con); Garth Jackson, Tacoma Public Utilities (pro); Bruce Wishart, Sierra Club (con); Ron Newbry, Pacific Power & Light (pro); Hedia Adelsman and Mel Schaefer, Department of Ecology (con); Susan Markey, Department of Fisheries (con); Collins Sprague, Washington Water Power (pro); Terry Oxley, Puget Power (pro); and Josh Baldi, Northwest Rivers Council (con).