

# HOUSE BILL REPORT

## SSB 5881

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### As Passed House - Amended:

April 10, 2007

**Title:** An act relating to water power license fees.

**Brief Description:** Modifying water power license fees.

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

### Brief History:

#### Committee Activity:

Agriculture & Natural Resources: 3/22/07, 3/29/07 [DPA];

Appropriations: 3/31/07 [DPA(APP w/o AGNR)s].

#### Floor Activity:

Passed House - Amended: 4/10/07, 65-33.

### Brief Summary of Substitute Bill (As Amended by House)

- Increases the annual fees for water power licenses based on the theoretical horsepower capacity of the project.
- Requires the Department of Ecology to submit a biennial progress report until 2017 justifying the appropriate use of the fees required by Federal Energy Regulatory Commission projects.
- Reduces the license fees by 50 percent for projects developed by an irrigation district in conjunction with the irrigation district's water conveyance system.
- Allows expenditures from the Reclamation Account to offset the cost of staff working on licensing issues.

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** Do pass as amended. Signed by 10 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Dickerson, Eickmeyer, Grant, Kagi, Lantz, McCoy, Orcutt and VanDeWege.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Hailey and Newhouse.

**Staff:** Jaclyn Ford (786-7339).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Appropriations and without amendment by Committee on Agriculture & Natural Resources. Signed by 22 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Morrell, Pettigrew, Schual-Berke, Seaquist and P. Sullivan.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Dunn, Hinkle, Kretz, McDonald and Priest.

**Staff:** Kirk Schmidt (786-7118).

### **Background:**

According to the Department of Ecology (DOE), there are approximately 100 hydroelectric projects in Washington, of which 56 projects have licenses from the Federal Energy Regulatory Commission (FERC). Owners of projects pay an annual hydropower fee which the state uses to pay for investigations and surveys of natural resources, including stream gaging, hydrographic, topographic, river, underground water, mineral, and geological surveys.

The annual power license fee is based upon the theoretical water power claimed under each and every separate claim to water. The fees have not been updated since 1929.

Every 35 to 50 years, the Federal Power Act requires that owners of hydropower projects get a new FERC license. Many of the hydropower projects were first licensed before adoption of the Clean Water Act, and are now up for re-licensing. A major part of licensing involves addressing environmental concerns not considered in previous licensing proceedings. The licensing process takes a minimum of five years, and FERC now requires that hydropower owners respond to new information throughout the life of the license, and manage the project accordingly. This approach requires oversight of license conditions, not only by FERC, but by the DOE and the Department of Fish and Wildlife (WDFW). As part of the FERC license, states must certify that hydropower projects meet state water quality standards. Each FERC license contains conditions to meet state water quality standards.

### **Summary of Amended Bill:**

The DOE will collect an annual fee on water power projects in operation and FERC projects in operation.

Capacity (theoretical horsepower)	Current Annual Fee (per theoretical horsepower)	Proposed Annual Fee in SSB 5881 (per theoretical horsepower)	Proposed Annual fee for FERC Projects (in addition to proposed fees)
0-1,000	\$0.10	\$0.18	\$0.32
1,000-10,000 excess	\$0.02	\$0.036	\$0.064
10,000 + excess	\$0.01	\$0.018	\$0.032

The rate for each and every theoretical horsepower of capacity claimed up to and including 1,000 horsepower is raised from 10 cents per horsepower to the new rate of 18 cents per horsepower. For each and every theoretical horsepower in excess of 1,000 horsepower, up to and including 10,000 horsepower, the rate is increased from 2 cents to the new rate of 3.6 cents per horsepower. For each and every theoretical horsepower in excess of 10,000 horsepower, the fee is increased from 1 cent to the new rate of 1.8 cents per horsepower.

In addition to the annual fee, FERC projects in operation will pay an extra fee. The rate for each and every theoretical horsepower of capacity claimed up to and including 1,000 horsepower is 32 cents per horsepower. Each and every theoretical horsepower in excess of 1,000 horsepower, up to and including 10,000 horsepower is 6.4 cents per horsepower. For each and every theoretical horsepower in excess of 10,000 horsepower, the fee is 3.2 cents per horsepower. The fees imposed on FERC projects will expire on June 30, 2017.

Fees are not required from any hydropower project owned by the United States, or for projects that generate 50 horsepower or less.

Projects developed by an irrigation district in conjunction with the irrigation district's water conveyance system will have their fees reduced by 50 percent to reflect the portion of the year when the project is not operating.

Irrigation districts or other municipal subdivisions developing power for pumping water for irrigation are exempt from all fees to the extent that the power is used for irrigation pumping. All fees are deposited into the Reclamation Account and may be used by the DOE for investigations and surveys of natural resources, as well as expenses associated with staff at the DOE and the WDFW working on FERC relicensing and licensing implementation.

The DOE will submit a progress report to the Legislature prior to December 31, 2009, and biennially until December 31, 2017. The progress report will describe how the license fees were expended, include recommendations from interested parties, and recognize hydropower operators that exceed their environmental regulatory requirements.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** (Agriculture & Natural Resources)

(In support) The DOE uses the money generated from the fees to support the gauging stations. The U.S. Geological Survey funding has been reduced recently and Washington needs to compensate for that reduction in order to maintain the gauging stations and other research and investigations. Washington needs more staff to work on FERC relicensing and licensing projects. Most dams that are up for relicensing were initially licensed before the Clean Water Act, and thus require more personnel than is currently unavailable. Following all the FERC relicensing, staff is required for maintenance. The fee structure should be included to allow for the 20 percent reduction for low-impact hydropower facilities.

(With concerns) Low-impact hydropower facilities should have a reduction in fees. Oregon has a system where if there is additional staff needed, the dam pays for the staff. The DOE should be adequately staffed to be sure there are no unintended consequences. Reductions shouldn't be given to low-impact hydropower facilities; neither should cost shifts occur.

(Opposed) None.

**Staff Summary of Public Testimony:** (Appropriations)

(In support) This bill raises fees for the first time since 1929. The fee increase is necessary to fund the increased workload associated with the relicensing of dams and bringing them into compliance with the federal Clean Water Act.

(Opposed) None.

**Persons Testifying:** (Agriculture & Natural Resources) (In support) Robert Mack, City of Tacoma; Rose Feliciano, City of Seattle; Melodie Selby, Washington Department of Ecology; and Dave Arbaugh, Chelan Public Utility District.

(With concerns) Kathleen Collins, Pacific Corporation.

**Persons Testifying:** (Appropriations) Ted Sturdevant, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** (Agriculture & Natural Resources) Ric Abbett, Hydropower Reform Coalition; Thomas O'Keefe, American Whitewater; and Pat McCarty, Tacoma Power.

**Persons Signed In To Testify But Not Testifying:** (Appropriations) None.