

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5881

Chapter 286, Laws of 2007

60th Legislature
2007 Regular Session

WATER POWER--LICENSE FEES

EFFECTIVE DATE: 07/22/07

Passed by the Senate April 17, 2007
YEAS 37 NAYS 12

BRAD OWEN

President of the Senate

Passed by the House April 10, 2007
YEAS 65 NAYS 33

FRANK CHOPP

Speaker of the House of Representatives

Approved May 2, 2007, 3:02 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5881** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 3, 2007

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5881

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

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

READ FIRST TIME 02/28/07.

1 AN ACT Relating to water power license fees; and amending RCW
2 90.16.050 and 90.16.090.

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

4 **Sec. 1.** RCW 90.16.050 and 1929 c 105 s 1 are each amended to read
5 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 power
9 development, shall on or before the first day of (~~July, 1929, and on~~
10 ~~or before the first day of~~) January of each year (~~thereafter~~) pay to
11 the state of Washington in advance an annual license fee, based upon
12 the theoretical water power claimed under each and every separate claim
13 to water according to the following schedule:

14 (a) For projects in operation: For each and every theoretical
15 horsepower claimed up to and including one thousand horsepower, at the
16 rate of (~~ten~~) eighteen cents per horsepower; for each and every
17 theoretical horsepower in excess of one thousand horsepower, up to and
18 including ten thousand horsepower, at the rate of (~~two~~) three and

1 six-tenths cents per horsepower; for each and every theoretical
2 horsepower in excess of ten thousand horsepower, at the rate of one and
3 eight-tenths cents per horsepower.

4 (b) For federal energy regulatory commission projects in operation,
5 the following fee schedule applies in addition to the fees in (a) of
6 this subsection: For each theoretical horsepower of capacity up to and
7 including one thousand horsepower, at the rate of thirty-two cents per
8 horsepower; for each theoretical horsepower in excess of one thousand
9 horsepower, up to and including ten thousand horsepower, at the rate of
10 six and four-tenths cents per horsepower; for each theoretical
11 horsepower in excess of ten thousand horsepower, at the rate of three
12 and two-tenths cents per horsepower.

13 (c) To justify the appropriate use of fees collected under (b) of
14 this subsection, the department of ecology shall submit a progress
15 report to the appropriate committees of the legislature prior to
16 December 31, 2009, and biennially thereafter until December 31, 2017.

17 (i) The progress report will: (A) Describe how license fees were
18 expended in the federal energy regulatory commission licensing process
19 during the current biennium, and expected workload and full-time
20 equivalent employees for federal energy regulatory commission licensing
21 in the next biennium; (B) include any recommendations based on
22 consultation with the departments of ecology and fish and wildlife,
23 hydropower project operators, and other interested parties; and (C)
24 recognize hydropower operators that exceed their environmental
25 regulatory requirements.

26 (ii) The fees required in (b) of this subsection expire June 30,
27 2017. The biennial progress reports submitted by the department of
28 ecology will serve as a record for considering the extension of the fee
29 structure in (b) of this subsection.

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

32 (a) For undeveloped projects, the fee shall be at one-half the
33 rates specified for projects in operation; for projects partly
34 developed and in operation the fees paid on that portion of any project
35 that shall have been developed and in operation shall be the full
36 annual license fee ((above)) specified in subsection (1) of this
37 section for projects in operation, and for the remainder of the power
38 claimed under such project the fees shall be the same as for

1 undeveloped projects. (~~PROVIDED, That upon the filing of statement,~~
2 ~~as hereinafter required, by the United States or the state claiming the~~
3 ~~right to the use of water to any extent for the generation of power, or~~
4 ~~any other claimant to the use of water for the generation of fifty~~
5 ~~horsepower, or less, shall be exempted from the payment of all fees~~
6 ~~hereinafter required; and PROVIDED FURTHER, That~~))

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

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

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

17 (e) Any irrigation district or other municipal subdivision of the
18 state, developing power chiefly for use in pumping of water for
19 irrigation, (~~may~~) upon the filing of a statement(~~(7)~~) showing the
20 amount of power used for irrigation pumping, (~~be exempted~~) is exempt
21 from the fees in subsection (1) of this section to the extent of the
22 power (~~so~~) used (~~from the payment of the annual license fee herein~~
23 provided) for irrigation pumping.

24 **Sec. 2.** RCW 90.16.090 and 1988 c 127 s 79 are each amended to read
25 as follows:

26 (1) All fees paid under provisions of this chapter, shall be
27 credited by the state treasurer to the reclamation (~~revolving~~)
28 account created in RCW 89.16.020 and subject to legislative
29 appropriation, be allocated and expended by the director of ecology
30 for:

31 (a) Investigations and surveys of natural resources in cooperation
32 with the federal government, or independently thereof, including stream
33 gaging, hydrographic, topographic, river, underground water, mineral
34 and geological surveys(~~(: PROVIDED, That in any one biennium all said~~
35 expenditures shall not exceed total receipts from said power license
36 fees collected during said biennium: AND PROVIDED FURTHER, That the
37 portion of money allocated by said director to be expended in

1 ~~cooperation with the federal government shall be contingent upon the~~
2 ~~federal government making available equal amounts for such~~
3 ~~investigations and surveys)); and~~

4 (b) Expenses associated with staff at the departments of ecology
5 and fish and wildlife working on federal energy regulatory commission
6 relicensing and license implementation.

7 (2) Unless otherwise required by the omnibus biennial
8 appropriations acts, the expenditures for these purposes must be
9 proportional to the revenues collected under RCW 90.16.050(1).

Passed by the Senate April 17, 2007.

Passed by the House April 10, 2007.

Approved by the Governor May 2, 2007.

Filed in Office of Secretary of State May 3, 2007.