

# FINAL BILL REPORT

## SHB 1130

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Synopsis as Enacted

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

**Sponsors:** House Committee on Environment (originally sponsored by Representatives Fey, Short, Tharinger, Fitzgibbon and Gregerson; by request of Department of Ecology and Department of Fish and Wildlife).

**House Committee on Environment**  
**House Committee on General Government & Information Technology**  
**Senate Committee on Energy, Environment & Telecommunications**

**Background:**

The Department of Ecology (ECY) issues federal Clean Water Act water quality certifications to hydroelectric dam operators licensed by the Federal Energy Regulatory Commission (FERC). The ECY's water quality certification process is typically conducted in conjunction with the FERC licensing or relicensing process for the hydropower project. The FERC licenses to hydropower operators under the Federal Power Act are issued for 30 to 50 years. After the FERC license and water quality certificate have been issued for a project, compliance with water quality protection criteria is monitored by the ECY and the Washington Department of Fish and Wildlife (WDFW).

Most claimants to water intended to be used for power development are required to pay an annual fee to the ECY. The fee is assessed on approximately 93 different power generation facilities and is based on the theoretical amount of water claimed by the entity developing power. All revenues are deposited into the Reclamation Account.

The fees for water power development are based on a two-step model that considers theoretical horsepower claimed. The first step is the base fee paid by all water power claimants. Base fees are calculated using the following formula:

- Facilities that generate between 51 and 1,000 horsepower pay 18 cents per horsepower.
- Facilities that generate between 1,001 and 10,000 horsepower pay 3.6 cents per horsepower.
- Facilities that generate more than 10,001 horsepower pay 1.8 cents per horsepower.

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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.*

In addition to the base fee, all water power generation facilities that are regulated by the FERC must, until June 30, 2017, pay an additional fee. Only power generation facilities above a certain power generating threshold are required to be licensed by the FERC. The additional fees are calculated using the following formula:

- Facilities that generate between 51 and 1,000 horsepower pay 32 cents per horsepower.
- Facilities that generate between 1,001 and 10,000 horsepower pay 6.4 cents per horsepower for horsepower above 1,001 and 32 cents per horsepower for the first 1,000 horsepower.
- Facilities that generate more than 10,001 horsepower pay 3.2 cents per horsepower for horsepower above 10,001, 6.4 cents per horsepower for horsepower above 1,001, and 32 cents per horsepower for the first 1,000 horsepower.

The base fee and the second fee paid by facilities licensed by the FERC are additive until June 30, 2017, when the additional fee expires and all facilities are only required to pay the base fee.

According to the ECY, the base fees generated \$583,000 in the 2012-2013 biennium and the additional fee generated \$1,017,000. These funds are used by the ECY and the WDFW to assist power generation facilities in meeting environmental regulatory requirements and other requirements associated with the FERC licensing process.

The ECY submits a biennial report to the Legislature describing how license fees were spent on the ECY and the WDFW's water quality certification work for the FERC-licensed hydropower projects.

### **Summary:**

The expiration date for the additional fee charged to water power generating facilities that are licensed by the FERC is extended six years, from the year 2017 until the year 2023. The fee is also specified to only apply to FERC projects that are subject to review for federal Clean Water Act certification. The rates and collection methods of the additional fee are not changed.

After June 30, 2023, all claimants to water used for power generation will only pay the base fee.

In the biennial report to the Legislature, the ECY must detail how much money from licensing fees and other program funds was spent on work for each hydropower project. The detailed program expenditure information in the report must include:

- project-specific costs and staff time associated with work undertaken by the agencies during prelicensing, licensing or relicensing, and license implementation phases of a hydropower project;
- sufficient information to determine that hydropower license fees charged are not used for activities performed by other state agencies, federal agencies, or tribes, and that duplication is avoided; and

- an estimate of expected workload, program costs, and staff time for Clean Water Act certifications or FERC license implementation for projects in the upcoming two year reporting period.

Certain administrative requirements are established related to the implementation of the hydropower project licensing program by the ECY and the WDFW:

- The ECY and the WDFW must assign individual staff members as project leads for each hydropower project.
- The ECY and the WDFW must develop an annual work plan for their hydropower licensing programs.
- The ECY and the WDFW must circulate an annual survey to licensees regarding their interactions with the program staff of the departments. This survey's results must be analyzed and summarized prior to an annual meeting that the ECY and the WDFW must host for hydropower project licensees and other interested parties.

**Votes on Final Passage:**

House	71	27	
Senate	46	3	(Senate amended)
House	80	16	(House concurred)

**Effective:** June 9, 2016