

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1931

67th Legislature
2022 Regular Session

Passed by the House February 15, 2022
Yeas 95 Nays 2

**Speaker of the House of
Representatives**

Passed by the Senate March 4, 2022
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1931** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1931

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

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By Representative Fey; by request of Department of Ecology

Read first time 01/12/22. Referred to Committee on Appropriations.

1 AN ACT Relating to sustaining hydropower license fees; and
2 amending RCW 90.16.050.

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

4 **Sec. 1.** RCW 90.16.050 and 2016 c 75 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
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. ~~((i))~~ The progress
16 report will: ~~((A))~~ (i) Describe how license fees and other funds
17 used for the work of the licensing program were expended in direct
18 support of the federal energy regulatory commission licensing process
19 and license implementation during the current biennium, and expected
20 workload and full-time equivalent employees for federal energy
21 regulatory commission licensing in the next biennium. In order to
22 increase the financial accountability of the licensing, relicensing,
23 and license implementation program, the report must include the
24 amount of licensing fees and program funds that were expended on
25 licensing work associated with each hydropower project. This project-
26 specific program expenditure list must detail the program costs and
27 staff time associated with each hydropower project during the time
28 period immediately prior to license issuance process, the program
29 costs and staff time deriving from the issuance or reissuance of a
30 license to each hydropower project, and the program costs and staff
31 time associated with license implementation after the issuance or
32 reissuance of a license to a hydropower project. This program cost
33 and staff time information must be collected beginning July 1, 2016,
34 and included in biennial reports addressing program years 2016 or
35 later. The report must also include an estimate of the total
36 workload, program costs, and staff time for work associated with
37 either certification under section 401 of the federal clean water act
38 or license implementation for federally licensed hydropower projects
39 expected to occur in the next reporting period, or both. In addition,
40 the report must provide sufficient information to determine that the

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

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

13 (d) The fees required in (b) of this subsection expire June 30,
14 2029. The biennial program reports submitted by the department of
15 ecology will serve as a record for considering the extension of the
16 fee structure in (b) of this subsection.

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

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

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

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

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

37 (e) Any irrigation district or other municipal subdivision of the
38 state, developing power chiefly for use in pumping of water for
39 irrigation, upon the filing of a statement showing the amount of
40 power used for irrigation pumping, is exempt from the fees in

1 subsection (1) of this section to the extent of the power used for
2 irrigation pumping.

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

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

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

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

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

1 pursuant to subsection (1)(c)(~~(i)~~) of this section. Prior to the
2 annual meeting, the department of ecology and the department of fish
3 and wildlife must analyze the survey results. The departments must
4 present summarized information based on their analysis of survey
5 results at the annual meeting for purposes of discussion with
6 hydropower project licensees.

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