

Bill Summary

The Himachal Pradesh Water Cess on Hydropower Generation Bill, 2023

- The Himachal Pradesh Water Cess on Hydropower Generation Bill, 2023 was introduced in the Himachal Pradesh Legislative Assembly on March 14, 2023 and passed on March 16, 2023. It replaces the Himachal Pradesh Water Cess on Hydropower Generation Ordinance, 2023 promulgated on February 15, 2023. The Bill seeks to levy cess on hydropower generation in the state. Key features of the Bill are:
- **Water Cess:** A cess will be levied on the amount of water drawn during the process of hydropower generation. This will apply to hydropower projects operated by government departments, local bodies, as well as companies (referred to as users). The volume of water drawn will be measured based on the difference in the water level at the entry and exit points of the project. The rate of the cess will be notified by the state government. The Bill establishes the State Commission for Water Cess to administer the levy of the cess. Until the Commission is established, the Secretary to the Jal Shakti Department will exercise the powers and functions of the Commission.
- **Registration with the Commission:** Users intending to draw water for hydropower generation must register with the Commission. Such users shall submit a project report to the Commission, which must be sanctioned by the Director of Energy or Central Electricity Authority or any other authority as the case may be. Existing projects must apply for registration within one month from the date the provisions of the Bill come into force. The Commission must grant registration to these existing projects within one month of the application.
- **Measurement of water drawn:** The Commission will assess water drawn for hydropower generation and compute the cess amount. For this purpose, the Commission will install or cause to be installed a flow measuring device within the premises of the hydropower project. The expenditure for the installation will be borne by the users. The Commission may also adopt any indirect method for assessing the water drawn. The Commission will adjudicate disputes relating to the cess.
- If any installed devices are damaged, the user will be responsible for replacing them. Failure to do so will attract a penalty of Rs 50,000. If a user fails to pay the cess, a penalty will be imposed as determined by the Commission. In the event of contravention of Commission decisions, a penalty of up to Rs 10 lakh may be imposed. An additional penalty of up to Rs 5,000 per day may also be imposed for continuous default. The Commission must give an opportunity for a hearing before imposing a penalty.
- **Composition of the Commission:** The Commission will consist of a Chairperson and up to four members. The term of appointment will be three years. The Chairperson must be holding or have held a post not below the rank of Secretary to the state government. The members should have at least 15 years of experience in the field of engineering, finance, commerce, law, or management. At least one member must be holding or have held the position of Chief Engineer in the field of hydropower engineering.
- **Search Committee for appointments:** A search committee will recommend appointments to the Commission. The Chief Secretary to the state government will chair the committee. Other members of the Committee will be Secretaries to the Departments of (i) Power, (ii) Jal Shakti, (iii) Law, and (iv) Finance.
- **Judicial powers of the Commission:** The Commission, when making an inquiry or initiating any proceedings under the Act, will have the powers of the Civil Court under the Code of Civil Procedure, 1908 in matters such as: (i) summoning witnesses and examining them on oath, (ii) receiving evidence on affidavits, and (iii) requisition of any public record.
- **Water Cess on Hydropower Generation Commission Fund:** The Bill constitutes the Fund for meeting the expenses of the Commission and expenses on objects and purposes authorised by the Bill. The Fund will be financed through: (i) grants or loans by the state government, (ii) fees received by the Commission, and (iii) sums received by the Commission from other sources as notified by the state government.

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