

E2SSB 6111 - H AMD 1435

By Representative McCoy

ADOPTED 03/06/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that the global
4 energy economy is undergoing significant changes creating a situation
5 where energy prices are increasingly more expensive and the sources of
6 energy increasingly less secure. Additionally, the legislature finds
7 that there is growing concern about the consequences associated with
8 greenhouse gas emissions from conventional sources of energy and the
9 need for action to address the threats of climate change. The
10 legislature finds ocean and tidal resources, as well as other forms of
11 hydrokinetic energy, will play an important role in providing clean,
12 carbon-free, reliable, and affordable energy to the citizens of
13 Washington. The legislature finds that the development of wave and
14 tidal energy technologies in Washington will create more highly valued
15 green jobs in the state.

16 (2) It is the intent of the legislature to facilitate the
17 development of clean, carbon-free, reliable, and affordable power
18 sources for the energy needs of Washington's growing economy. Also, it
19 is the intent of the legislature to help catalyze the emergence of a
20 new water-power industry that is able to export technology and
21 expertise to the rest of the country and the world. In addition, the
22 legislature finds that hydrokinetic energy technologies are in their
23 infancy and care must be taken to properly design and site these
24 facilities in order to avoid impacts on the marine environment. To
25 achieve these goals, the legislature intends to establish a public-
26 private organization that will support a sustainable approach to
27 hydrokinetic energy development aimed at economic development,
28 environmental protection, and community stability.

29 (3)(a) It is the intent of the legislature for state agencies to

1 explore a streamlined approach to environmental permit decision making
2 for wave and tidal power projects.

3 (b) To optimize the development and siting process for wave and
4 tidal power systems and to provide environmental protection, the
5 legislature finds that state regulatory and natural resource agencies,
6 public and private sector interests, tribes, local and regional
7 governments, and applicable federal agencies must work cooperatively to
8 establish common goals, minimize project siting delays, develop
9 consistency in the application of environmental standards, and
10 eliminate duplicative processes through assigned responsibilities of
11 selected permit drafting and compliance activities between state
12 agencies.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this act unless the context clearly requires otherwise.

15 (1) "Center" means the Washington state center for excellence in
16 hydrokinetic energy.

17 (2) "Council" means the energy facility site evaluation council.

18 (3) "Department" means the department of community, trade, and
19 economic development.

20 (4) "Hydrokinetic energy" means hydroelectric generation from ocean
21 waves, tides, and currents, from free-flowing rivers and streams, and
22 from water discharges.

23 (5) "Water discharges" means water discharges from agricultural,
24 industrial, and commercial operations, wastewater treatment plants, or
25 residential properties.

26 NEW SECTION. **Sec. 3.** The department and the council shall convene
27 and cochair a work group to develop the Washington state center for
28 excellence in hydrokinetic energy and to explore mechanisms to
29 streamline and make more efficient current permitting processes for
30 wave and tidal power projects.

31 NEW SECTION. **Sec. 4.** (1) The work group created under section 3
32 of this act consists of, but is not limited to, representatives from:

- 33 (a) The department of natural resources;
- 34 (b) The department of ecology;
- 35 (c) The department of fish and wildlife;

- 1 (d) The utilities and transportation commission;
- 2 (e) A wave energy company or tidal energy company, or both;
- 3 (f) A wave energy industry association or tidal energy industry
- 4 association, or both;
- 5 (g) Either a state or private university researching wave energy or
- 6 a state or private university researching tidal energy, or both;
- 7 (h) The Northwest Indian fisheries commission;
- 8 (i) An electrical utility;
- 9 (j) A local government;
- 10 (k) A commercial fishing association;
- 11 (l) A conservation group with expertise in energy-related issues;
- 12 (m) A conservation group with expertise in marine ecology; and
- 13 (n) A marine recreation group.
- 14 (2) State agencies under subsection (1) of this section that are
- 15 members of the council under RCW 80.50.030 shall provide their existing
- 16 designee members to serve on the work group in carrying out the
- 17 responsibilities of this act.

18 NEW SECTION. **Sec. 5.** (1) In developing the center, the work group
19 created in section 3 of this act shall ensure that the center is a
20 public-private entity and that the center supports a sustainable
21 approach to hydrokinetic energy development aimed at economic
22 development, environmental protection, and community stability.

23 (2) The work group created in section 3 of this act shall make
24 recommendations to the legislature to include, but not be limited to,
25 the following:

26 (a) How the center will conduct and support research and
27 demonstrations of wave and tidal energy technologies in order to
28 facilitate the deployment and commercialization of these technologies
29 in Washington;

30 (b) How the center will establish and operate wave and tidal energy
31 test ranges that allow developers to demonstrate their wave and tidal
32 energy technologies;

33 (c) How the center will maintain processes to assist developers in
34 permitting their wave and tidal energy technologies;

35 (d) How the center will collect, manage, and disseminate data
36 necessary to assess statewide wave and tidal resources;

1 (e) How the center will promote Washington as the optimal location
2 for the development of and deployment of wave and tidal energy
3 technologies;

4 (f) What the public-private governance structure of the center will
5 be, considering the life sciences discovery fund as a model;

6 (g) How the center will coordinate with other governmental wave and
7 tidal institutions and initiatives in the Pacific Northwest economic
8 region;

9 (h) How the center will be funded through either state, federal, or
10 private sources of funding, or a combination of these funding sources;

11 (i) How the center will assist the state and various other entities
12 in reducing greenhouse gas emissions;

13 (j) How the center will assist other forms of hydrokinetic energy
14 technologies in addition to wave and tidal energy;

15 (k) How the center will identify and develop protocols to manage
16 issues involving competing uses of water space; and

17 (l) What types of review and data are necessary to ensure that
18 hydrokinetic energy will be designed and sited so as to avoid negative
19 impacts on marine ecosystems.

20 NEW SECTION. **Sec. 6.** The work group created in section 3 of this
21 act shall provide a report to the appropriate committees of the
22 legislature containing its recommendations under section 5 of this act,
23 as well as draft legislation implementing its recommendations, by
24 December 1, 2008.

25 NEW SECTION. **Sec. 7.** (1)(a) The work group created in section 3
26 of this act shall explore mechanisms to streamline and make more
27 efficient permitting processes for wave and tidal power projects. The
28 work group may recommend development of a permit process which allows
29 for concurrent public review, consolidated appeals, and other
30 mechanisms which result in permit process efficiency. In making these
31 recommendations, the work group will ensure that there is adequate
32 environmental review of the full range of potential impacts from this
33 technology and that meaningful public involvement opportunities are
34 preserved. The work group shall also identify and make recommendations
35 of any potential barriers to the streamlining.

1 (b) The work group shall consider and make recommendations
2 regarding research relating to the marine environment. In making the
3 recommendations, the work group shall consider how future marine
4 research would add value to the existing understanding of the overall
5 marine environment and provide guidance on future research with the
6 goal of eliminating redundant research activities.

7 (2) The work group created in section 3 of this act, in developing
8 recommendations for permit streamlining, shall consider additional
9 issues that may be associated with permitting a wave or tidal energy
10 project, which include, but are not limited to:

11 (a) Disturbance or destruction of marine life, including acoustic
12 impacts;

13 (b) Toxic releases from leaks or accidental spills of liquids used
14 in those systems with working hydraulic fluids;

15 (c) Possible threat to navigation from collisions;

16 (d) Interference of mooring and anchorage lines with commercial and
17 sport fishing;

18 (e) Tidal power plants that dam estuaries that can impede sea life
19 migration and build up silt behind such facilities, impacting local
20 ecosystems; and

21 (f) Potential impacts of tidal power on tides, currents, and
22 flushing.

23 (3) By June 30, 2009, the work group created in section 3 of this
24 act shall develop a work plan that details critical issues that need to
25 be resolved to develop efficient, streamlined permitting processes for
26 wave and tidal power projects. The work group shall provide the work
27 plan to the legislature for review every six months. If the work group
28 determines that additional time is required to develop recommendations
29 for the permitting process for wave power projects, the work group
30 shall report to the legislature on the need for additional time and
31 update the work plan accordingly.

32 (4) By June 30, 2010, the work group created in section 3 of this
33 act shall provide a final report to the legislature on its findings and
34 recommendations.

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.08 RCW
36 to read as follows:

37 (1) The tax levied by RCW 82.08.020 does not apply to sales of

1 machinery and equipment used directly in generating tidal or wave
2 energy, or to sales of or charges made for labor and services rendered
3 in respect to installing such machinery and equipment, but only if the
4 purchaser develops with such machinery, equipment, and labor a facility
5 capable of generating at least two hundred kilowatts of electricity and
6 provides the seller with an exemption certificate in a form and manner
7 prescribed by the department. The seller shall retain a copy of the
8 certificate for the seller's files.

9 (2) For purposes of this section and section 9 of this act:

10 (a) "Machinery and equipment" has the same meaning as provided in
11 RCW 82.08.02567.

12 (b) Machinery and equipment is "used directly" in generating
13 electricity with tidal or wave energy if it provides any part of the
14 process that captures the energy of the tidal or wave energy.

15 (3) This section expires June 30, 2018.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.12 RCW
17 to read as follows:

18 (1) The provisions of this chapter do not apply with respect to
19 machinery and equipment used directly in generating at least two
20 hundred kilowatts of electricity using tidal or wave energy as the
21 principal source of power, or to the use of labor and services rendered
22 in respect to installing such machinery and equipment.

23 (2) The definitions in section 8 of this act apply to this section.

24 (3) This section expires June 30, 2018.

25 NEW SECTION. **Sec. 10.** Sections 1 through 7 of this act expire
26 January 1, 2011.

27 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
28 sections 1 through 7 of this act, referencing sections 1 through 7 of
29 this act by bill or chapter number, is not provided by June 30, 2008,
30 in the omnibus appropriations act, sections 1 through 7 of this act are
31 null and void."

32 Correct the title.

EFFECT: Requires the Department of Community, Trade, and Economic

Development and the Energy Facility Site Evaluation Council to convene and cochair a work group to develop recommendations on how to create the Washington State Center for Excellence in Hydrokinetic Energy and to explore mechanisms to streamline and make more efficient current permitting processes for wave and tidal power projects. Specifies the members of the work group. Provides deadlines for the reporting of recommendations by the work group.

Removes a public utility tax deduction for costs of producing electrical energy from tidal or wave energy devices. Removes provisions requiring the Department of Ecology to establish a wave and tidal energy work group to review issues relating to the siting and operation of tidal and wave energy projects. Increases the minimum generating capacity of a wave or tidal energy facility eligible to receive the sales and use tax exemption to two hundred kilowatts.

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