

# SENATE BILL REPORT

## E2SSB 6111

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As Amended by House, March 6, 2008

**Title:** An act relating to generating electricity from tidal and wave energy.

**Brief Description:** Concerning generating electricity from tidal and wave energy.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hobbs, Poulsen, Jacobsen and Tom).

**Brief History:**

**Committee Activity:** Natural Resources, Ocean & Recreation: 2/22/07, 2/26/07 [DPS-WM].

Ways & Means: 1/22/08, 2/27/08 [DP2S, w/oRec].

Passed Senate: 2/29/08, 45-3.

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Staff:** Curt Gavigan (786-7437)

**Majority Report:** That Substitute Senate Bill No. 6111 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Stevens and Swecker.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 6111 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller and Tom.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Schoesler.

**Staff:** Dean Carlson (786-7305)

**Background:** Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Examples of such

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instances include purchases made in other states and purchases from sellers who do not collect Washington sales tax. Sales and use taxes are levied by the state, counties, and cities. Rates vary between 7 and 8.9 percent, depending on the location in the state. Use tax is paid directly to the Department of Revenue (DOR).

Under current law there is an exemption from the retail sales and use taxes for machinery and equipment used directly to generate at least 200 watts of electricity using wind or solar energy, landfill gas, or fuel cells as a power source. Current law also provides a tax deduction for production costs of energy produced by energy production facilities using renewable resources.

**Summary of Engrossed Second Substitute Bill:** Exemptions from state and local retail sales and use taxes are enacted for devices that generate electrical energy by using tidal or wave energy. The exemptions cover the cost of the equipment, as well as installation labor. To qualify, the device must be capable of producing at least five kilowatts of energy. These exemptions expire on June 30, 2018.

A new tax deduction is established for the cost of production of electrical energy from tidal or wave energy devices. Firms that produce or generate electrical energy may deduct such costs from their public utility tax liability for up to 30 years after the tidal or wave energy device is placed in operation. Only new facilities for which construction began after January 1, 2008, but before January 1, 2018, are eligible. DOR must consult with the Utilities and Transportation Commission and local regulated utilities to determine the eligibility of specific projects and the amount of qualifying tax deduction.

The Department of Ecology (DOE) is directed to convene a work group to review issues related to siting and operation of tidal and wave energy facilities. Various state agencies, private firms engaged in developing these facilities and related industry associations, university researchers, the NW Indian Fisheries Commission, an electrical utility, and a local government entity must comprise the stakeholder group. The review must include state and federal regulatory requirements, environmental analysis of tidal and wave energy technologies, and existing or new state policies relating to these facilities. The report of the work group is due by the end of 2008.

**Appropriation:** None.

**Fiscal Note:** Requested on February 21, 2007.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Natural Resources, Ocean & Recreation):** PRO: Washington State can be a leader in the tidal and wave energy arena in the United States. We think tidal and wave energy generation should be examined to see how Washington citizens can benefit. Snohomish County Public Utilities District (PUD) has applied for seven permits to study this issue.

DNR's role is proprietary, not regulatory in the leasing of aquatic lands. We continue to work with all applicants at the earliest opportunity as they begin the permitting process at the state

and federal level. DNR fully supports the intent of this bill and have some suggestions on how to improve the legislation and will work with the sponsor and chair to that end.

CON: There is a claim race for permit applications for tidal or wave energy in Washington. We need to realize that there are many similarities between the race and pressure for moving to implement tidal and wave under way now with the same pressures there were to rush to hydro-power that led us to have as many dams that we do. The dams have significant impact that we did not realize at the time the state pushed forward, let us not make the same mistake again. This issue needs longer review and study.

**Persons Testifying (Natural Resources, Ocean & Recreation):** PRO: Senator Hobbs, prime sponsor; Fran McNair, DNR; Dana Toulson, Snohomish County PUD.

CON: Mike Racine, Washington Scuba Alliance.

**Staff Summary of Public Testimony on First Substitute Bill (Ways & Means):** PRO: We support extending the tax breaks to wave and tidal power as these sources are expensive. We think the sunset date should be extended. We would like to see this tax break also extended to biomass. These tax breaks will help reduce competitive disadvantages and will help utilities to diversify and conform to I-937. This is important to Snohomish County PUD as we are experiencing low growth and it will help us conform to I-937. This would provide clean energy that is renewable. We have permits for studying seven sites in the Puget Sound. We have done extensive outreach on tidal energy with many different groups. We agree with the extension of the sunset. I would suggest that the working group that is currently working on this issue through the Governor's Office be preserved in addition to or in lieu of the Ruckelshaus study.

**Persons Testifying (Ways & Means):** PRO: Carrie Dowick, Northwest Energy Coalition; Craig Collar, Snohomish Public Utility District.

**House Amendment(s):** 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 DOE 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 200 kilowatts.