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**Technology, Energy &  
Communications Committee**

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**HB 2555**

**Brief Description:** Creating the wave and tidal power permit streamlining work group.

**Sponsors:** Representative Morris.

**Brief Summary of Bill**

- Establishes a work group to develop a one-stop permitting processes for the siting of wave power and tidal power projects.

**Hearing Date:** 1/16/08

**Staff:** Scott Richards (786-7156).

**Background:**

**Federal Energy Regulatory Commission**

Under the Federal Power Act, the Federal Energy Regulatory Commission (FERC) is authorized to issue preliminary permits to permittees to conduct feasibility studies and licenses for the construction and operation of all hydroelectric projects in navigable waters of the United States.

**Recent Wave and Tidal Power Activities**

Currently, there are eight tidal power projects and one wave power project under development in Washington. Tacoma Power is developing a tidal power project located in the Tacoma Narrows and Snohomish County Public Utility District (PUD) is developing seven tidal power projects located throughout Puget Sound in Spieden Channel, San Juan Channel, Guemes Channel, Agate Pass, Rich Passage, Admiralty Inlet and Deception Pass. Finavera Renewables is responsible for developing the sole wave power project in Washington. It is located in the Pacific Ocean in Makah Bay in Clallam County.

In early 2007, Tacoma Power and Snohomish PUD received preliminary permits from FERC that allows the utilities to conduct environmental, technical, and economic feasibility studies and evaluate tidal energy potential at their sites. The preliminary permits issued by FERC reserves a

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project location for the permit holder for up to three years while these studies are conducted. Construction activities are not permitted while a project is being studied. At the end of the three years, a license application must be filed by the permit holder or they lose priority to develop the location.

In December 2007, FERC issued its first ever operating license for a wave, tidal, or current (hydrokinetic) energy project in the United States to Finavera Renewables for its Makah Bay Pilot Project. The decision by FERC gives Finavera Renewables a conditional five-year license for the proposed project. The FERC license is conditional on the company obtaining all necessary additional federal and state permits before construction may begin.

### **Regulatory Uncertainty**

Because wave and tidal power is in its early stages of development, there remains uncertainty over which federal and state agencies have regulatory jurisdiction over a particular wave or tidal project and how various permits would be processed in a timely manner. For example, on the federal level, in addition to FERC, the Minerals Management Service (MMS), the National Oceanic and Atmospheric Administration (NOAA), the Environmental Protection Agency, the U.S. Army Corps of Engineers, and the U.S. Coast Guard may be involved in the siting and operations of a wave or tidal power project, depending on the project's location or the project's impacts. On the state level, the Department of Ecology, the Department of Natural Resources, the Department of Fish and Wildlife may be involved in the siting and operations of a wave or tidal power project, depending on the project's location or the project's impacts. In addition, local governments may be involved if the project or parts of the projects are located in its jurisdiction.

### **Energy Facility Site Evaluation Council**

The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one-stop licensing for large energy projects. The EFSEC membership includes: the EFSEC Chair, the Department of Ecology; the Department of Fish and Wildlife; the Department of Natural Resources; the Department of Community, Trade and Economic Development; and the Utilities and Transportation Commission. The following agencies are not regular members of the Council, but can elect to appoint a EFSEC representative for the siting of new projects: the Department of Agriculture; the Department of Health; the Department of Transportation; and the Military Department. The EFSEC's membership may include representatives from the particular city, county, or port district where potential projects may be located.

### **Summary of Bill:**

The EFSEC is required to convene and staff the Wave and Tidal Power Permit Streamlining Work Group (Work Group). The Work Group is responsible for developing recommendations for a streamlined one-stop permitting program that utilizes interagency review of projects to expedite permit decision making for both wave and tidal power projects.

The work group shall consists of, but not be limited to, representatives from the following entities:

- The Energy Facility Site Evaluation Council;
- The Department of Natural Resources;
- The Department of Ecology;
- The Department of Fish and Wildlife;
- The Utilities and Transportation Commission;

- The Department of Community, Trade, and Economic Development;
- The Office of Regulatory Assistance;
- A wave power company or tidal power company, or both;
- A wave power industry association or tidal power industry association, or both;
- Either a state university researching wave power or a state university researching tidal power, or both;
- The Northwest Indian Fisheries Commission;
- An electrical utility; and
- A local government.

In developing the one-stop permitting process, the Work Group must collaborate with appropriate governmental agencies and stakeholders to identify existing environmental standards, to assess the application of those standards, and to develop an integrated permitting process based upon best management practices for wave and tidal power projects that may be applied with certainty, consistency, and assurance of swift permit action. In developing its recommendations, the Work Group is required to develop a process that allows for concurrent public review, concurrent public hearings, and a unified appeals process of various state regulatory requirements.

In addition, the Work Group is required to:

- Develop and prioritize a list of permit streamlining opportunities;
- Evaluate flexible approaches that promote wave and tidal power development and protect environmental interests and make recommendations regarding how those approaches should be implemented;
- Identify whether legislative measures are required to implement the one-stop programmatic permitting process for wave and tidal power projects; and
- Determine how to maximize possible use of programmatic approaches to simplify issuance of federally required permits and project approvals.

By November 15, 2008, the Work Group is required to develop a detailed work plan of the process to develop the one-stop programmatic permitting for wave and tidal projects for review by the Legislature. The work plan must be updated every six months and provided to the Legislature.

By December 30, 2009, the Work Group is required to provide a final report to the Legislature on the one-stop programmatic permitting process proposed by the Work Group.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.