
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3216

State of Washington

60th Legislature

2008 Regular Session

By House Appropriations Subcommittee on General Government & Audit Review (originally sponsored by Representatives Seaquist, Morris, Upthegrove, Hudgins, Loomis, Kelley, Morrell, VanDeWege, Ericks, Hankins, and Eddy)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to hydrokinetic energy; creating new sections; and
2 providing an expiration date.

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

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

17 (2) It is the intent of the legislature to facilitate the
18 development of clean, carbon-free, reliable, and affordable power
19 sources for the energy needs of Washington's growing economy. Also, it

1 is the intent of the legislature to help catalyze the emergence of a
2 new water-power industry that is able to export technology and
3 expertise to the rest of the country and the world. In addition, the
4 legislature finds that hydrokinetic energy technologies are in their
5 infancy and care must be taken to properly design and site these
6 facilities in order to avoid impacts on the marine environment. To
7 achieve these goals, the legislature intends to establish a public-
8 private organization that will support a sustainable approach to
9 hydrokinetic energy development aimed at economic development,
10 environmental protection, and community stability.

11 (3)(a) It is the intent of the legislature for state agencies to
12 explore a streamlined approach to environmental permit decision making
13 for wave and tidal power projects.

14 (b) To optimize the development and siting process for wave and
15 tidal power systems and to provide environmental protection, the
16 legislature finds that state regulatory and natural resource agencies,
17 public and private sector interests, tribes, local and regional
18 governments, and applicable federal agencies must work cooperatively to
19 establish common goals, minimize project siting delays, develop
20 consistency in the application of environmental standards, and
21 eliminate duplicative processes through assigned responsibilities of
22 selected permit drafting and compliance activities between state
23 agencies.

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

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

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

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

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

34 (5) "Water discharges" means water discharges from agricultural,
35 industrial, and commercial operations, wastewater treatment plants, or
36 residential properties.

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

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

- 8 (a) The department of natural resources;
- 9 (b) The department of ecology;
- 10 (c) The department of fish and wildlife;
- 11 (d) The utilities and transportation commission;
- 12 (e) A wave energy company or tidal energy company, or both;
- 13 (f) A wave energy industry association or tidal energy industry
14 association, or both;
- 15 (g) Either a state or private university researching wave energy or
16 a state or private university researching tidal energy, or both;
- 17 (h) The Northwest Indian fisheries commission;
- 18 (i) An electrical utility;
- 19 (j) A local government;
- 20 (k) A commercial fishing association;
- 21 (l) A conservation group with expertise in energy-related issues;
- 22 (m) A conservation group with expertise in marine ecology; and
- 23 (n) A marine recreation group.

24 (2) State agencies under subsection (1) of this section that are
25 members of the council under RCW 80.50.030 shall provide their existing
26 designee members to serve on the work group in carrying out the
27 responsibilities of this act.

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

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

1 (a) How the center will conduct and support research and
2 demonstrations of wave and tidal energy technologies in order to
3 facilitate the deployment and commercialization of these technologies
4 in Washington;

5 (b) How the center will establish and operate wave and tidal energy
6 test ranges that allow developers to demonstrate their wave and tidal
7 energy technologies;

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

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

12 (e) How the center will promote Washington as the optimal location
13 for the development of and deployment of wave and tidal energy
14 technologies;

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

17 (g) How the center will coordinate with other governmental wave and
18 tidal institutions and initiatives in the Pacific Northwest economic
19 region;

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

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

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

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

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

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

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

12 (b) The work group shall consider and make recommendations
13 regarding research relating to the marine environment. In making the
14 recommendations, the work group shall consider how future marine
15 research would add value to the existing understanding of the overall
16 marine environment and provide guidance on future research with the
17 goal of eliminating redundant research activities.

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

22 (a) Disturbance or destruction of marine life, including acoustic
23 impacts;

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

26 (c) Possible threat to navigation from collisions;

27 (d) Interference of mooring and anchorage lines with commercial and
28 sport fishing;

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

32 (f) Potential impacts of tidal power on tides, currents, and
33 flushing.

34 (3) By June 30, 2009, the work group created in section 3 of this
35 act shall develop a work plan that details critical issues that need to
36 be resolved to develop efficient, streamlined permitting processes for
37 wave and tidal power projects. The work group shall provide the work
38 plan to the legislature for review every six months. If the work group

1 determines that additional time is required to develop recommendations
2 for the permitting process for wave power projects, the work group
3 shall report to the legislature on the need for additional time and
4 update the work plan accordingly.

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

8 NEW SECTION. **Sec. 8.** This act expires January 1, 2011.

9 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this
10 act, referencing this act by bill or chapter number, is not provided by
11 June 30, 2008, in the omnibus appropriations act, this act is null and
12 void.

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