SENATE BILL REPORT
SB 5161

As of February 4, 2009

Title: An act relating to extending tax incentives for renewable resources, including tidal and wave energy.

Brief Description: Extending tax incentives for renewable resources, including tidal and wave energy.

Sponsors: Senators Hobbs, Rockefeller, Honeyford, Hewitt, Oemig, Shin, Zarelli, Regala, Benton, Kilmer, Kline, Roach, Haugen and Pridemore.

Brief History:
Committee Activity: Environment, Water & Energy: 1/23/09.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Staff: William Bridges (786-7416)

Background: Sales and Use Taxes. 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. Sales taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent. The use tax is paid directly to the Department of Revenue.

Sales and Use Tax Exemption Relating to Renewable Power. There is currently 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. The exemptions expire June 30, 2009.

Public Utility Tax (PUT). Gross income derived from the operation of public and privately owned utilities is subject to the PUT. Generation and distribution of electrical energy is subject to a tax rate of 3.873 percent of gross operating revenue.

PUT Deduction for Renewable Power. There is currently a PUT tax deduction for the production costs of electrical energy from cogeneration facilities and energy production facilities using power derived from solar energy, wind, hydroelectric energy, geothermal energy, wood wastes, municipal wastes, agricultural products and wastes, and end-use waste

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heat. The deduction applies to facilities built between June 12, 1980, and January 1, 1990. Deductions may be allowed up to 30 years.

Cost-Test. Projects using the deduction must, at the time they are placed in service, be reasonably expected to save, produce, or generate energy at a cost less than or equal to the cost from similarly available conventional energy resources which utilize nuclear energy or fossil fuels.

Summary of Bill: Including Tidal, Wave, and Geothermal Power in the Sales and Use Tax Exemption Relating to Renewable Power. The exemption from the retail sales and use taxes for machinery and equipment used directly to generate at least 200 watts of electricity from a renewable resource is expanded to include tidal or wave energy and geothermal resources.

Extending the Expiration Dates. The expiration dates for the sales and use tax exemptions related to renewable energy are extended to June 30, 2019.

Creating a New PUT Deduction for Tidal, Wave, and Geothermal Power. A new PUT deduction is created for the production and generation of energy from tidal and wave energy, and from geothermal resources. Only new facilities where construction began after January 1, 2009, but before January 1, 2019, are eligible. Deductions may be allowed up to 30 years.

Removing the Cost-Test. The cost-test for applying the PUT deduction for renewable power is removed.

Technical changes are made.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on June 30, 2009.

Staff Summary of Public Testimony: PRO: A recent JLARC report recommended the Legislature continue the sales and use tax incentives or renewable power. Geothermal, tidal, and wave energy are added because they are emerging green technologies. Extending the credit will mean new jobs and increased local property revenues from the construction of new renewable projects. Existing tax incentives for the oil industry and coal-burning energy plants have no expiration dates and are valued at over $20 million a year. If the fossil fuel incentives are not repealed then why should the renewable energy incentives be allowed to expire? Bio digesters should be included in the current sales and use tax incentive. The sales and use tax incentives set to expire support renewable power needed to meet Initiative 937. The economic benefits generated by the incentives are greater than the cost to the general fund. Washington needs these incentives to keep up with the incentives in other states. Current oil and coal exemptions should not be repealed.

Persons Testifying: PRO: Senator Steve Hobbs, prime sponsor; Dave Arbaugh, NW & Inter-Mountain Power Producers; Dennis Burke, E3; Carrie Dolwick, NW Energy Coalition; Craig Engelking, Sierra Club; Ken Johnson, PSE; Elon Hasson, Horizon Wind Energy; Keven Lynch, Iberdrola Renewables; Clifford Traisman, Renewable Northwest Project, WA Environmental Council, WA Conservation Voters; Miguel Perez-Gibson, Climate Solutions; Collins Sprague, Avista Corporation.