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**SUBSTITUTE SENATE BILL 6111**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** Senate Committee on Natural Resources, Ocean & Recreation  
(originally sponsored by Senators Hobbs, Poulsen, Jacobsen and Tom)

READ FIRST TIME 02/28/07.

1            AN ACT Relating to generating electricity from tidal and wave  
2 energy; amending RCW 82.08.02567, 82.12.02567, and 82.16.055; adding a  
3 new section to chapter 43.31 RCW; and creating a new section.

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

5            NEW SECTION.    **Sec. 1.** The legislature finds that tidal and wave  
6 energy is a renewable energy resource, and that Washington's coastal  
7 areas and estuaries provide an abundance of potential resources for  
8 this emerging technology for the generation of electrical power. The  
9 legislature further finds that state assistance to this emerging  
10 technology is appropriate and should be comparable to assistance  
11 provided to other renewable energy technologies, including wind and  
12 solar power.

13            **Sec. 2.** RCW 82.08.02567 and 2004 c 152 s 1 are each amended to  
14 read as follows:

15            (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
16 machinery and equipment used directly in generating electricity using  
17 fuel cells, wind, sun, tidal or wave energy, or landfill gas as the  
18 principal source of power, or to sales of or charges made for labor and

1 services rendered in respect to installing such machinery and  
2 equipment, but only if the purchaser develops with such machinery,  
3 equipment, and labor a facility capable of generating not less than two  
4 hundred watts of electricity and provides the seller with an exemption  
5 certificate in a form and manner prescribed by the department. The  
6 seller shall retain a copy of the certificate for the seller's files.

7 (2) For purposes of this section and RCW 82.12.02567:

8 (a) "Landfill gas" means biomass fuel of the type qualified for  
9 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.  
10 "Landfill" means a landfill as defined under RCW 70.95.030;

11 (b) "Machinery and equipment" means industrial fixtures, devices,  
12 and support facilities that are integral and necessary to the  
13 generation of electricity using fuel cells, wind, sun, or landfill gas  
14 as the principal source of power;

15 (c) "Machinery and equipment" does not include: (i) Hand-powered  
16 tools; (ii) property with a useful life of less than one year; (iii)  
17 repair parts required to restore machinery and equipment to normal  
18 working order; (iv) replacement parts that do not increase  
19 productivity, improve efficiency, or extend the useful life of  
20 machinery and equipment; (v) buildings; or (vi) building fixtures that  
21 are not integral and necessary to the generation of electricity that  
22 are permanently affixed to and become a physical part of a building;

23 (d) Machinery and equipment is "used directly" in generating  
24 electricity with fuel cells or by wind energy, solar energy, or  
25 landfill gas power if it provides any part of the process that captures  
26 the energy of the wind, sun, or landfill gas, converts that energy to  
27 electricity, and stores, transforms, or transmits that electricity for  
28 entry into or operation in parallel with electric transmission and  
29 distribution systems;

30 (e) "Fuel cell" means an electrochemical reaction that generates  
31 electricity by combining atoms of hydrogen and oxygen in the presence  
32 of a catalyst.

33 (3) This section expires June 30, 2009.

34 **Sec. 3.** RCW 82.12.02567 and 2004 c 152 s 2 are each amended to  
35 read as follows:

36 (1) The provisions of this chapter shall not apply with respect to  
37 machinery and equipment used directly in generating not less than two

1 hundred watts of electricity using fuel cells, wind, sun, tidal or wave  
2 energy, or landfill gas as the principal source of power, or to the use  
3 of labor and services rendered in respect to installing such machinery  
4 and equipment.

5 (2) The definitions in RCW 82.08.02567 apply to this section.

6 (3) This section expires June 30, 2009.

7 **Sec. 4.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to read  
8 as follows:

9 (1) In computing tax under this chapter there shall be deducted  
10 from the gross income:

11 (a) An amount equal to the cost of production at the plant for  
12 consumption within the state of Washington of:

13 (i) Electrical energy produced or generated from cogeneration as  
14 defined in RCW 82.35.020; and

15 (ii) Electrical energy or gas produced or generated from renewable  
16 energy resources such as solar energy, wind energy, tidal or wave  
17 energy, hydroelectric energy, geothermal energy, wood, wood wastes,  
18 municipal wastes, agricultural products and wastes, and end-use waste  
19 heat; and

20 (b) Those amounts expended to improve consumers' efficiency of  
21 energy end use or to otherwise reduce the use of electrical energy or  
22 gas by the consumer.

23 (2) This section applies only to new facilities for the production  
24 or generation of energy from cogeneration or renewable energy resources  
25 or measures to improve the efficiency of energy end use on which  
26 construction or installation is begun after June 12, 1980, and before  
27 January 1, 1990.

28 (3) Deductions under subsection (1)(a) of this section shall be  
29 allowed for a period not to exceed thirty years after the project is  
30 placed in operation.

31 (4) Measures or projects encouraged under this section shall at the  
32 time they are placed in service be reasonably expected to save,  
33 produce, or generate energy at a total incremental system cost per unit  
34 of energy delivered to end use which is less than or equal to the  
35 incremental system cost per unit of energy delivered to end use from  
36 similarly available conventional energy resources which utilize nuclear

1 energy or fossil fuels and which the gas or electric utility could  
2 acquire to meet energy demand in the same time period.

3 (5) The department of revenue, after consultation with the  
4 utilities and transportation commission in the case of investor-owned  
5 utilities and the governing bodies of locally regulated utilities,  
6 shall determine the eligibility of individual projects and measures for  
7 deductions under this section.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.31 RCW  
9 to read as follows:

10 (1) The department of ecology shall contract with the William D.  
11 Ruckelshaus policy consensus center to organize and facilitate a  
12 stakeholder review of issues relating to the siting and operation of  
13 tidal and wave energy projects. Included within the review should be  
14 each state agency with regulatory or proprietary jurisdiction over the  
15 projects or sites on which projects are located, federal agencies with  
16 such jurisdiction, tribes, project sponsors, utilities purchasing power  
17 from or sponsoring such projects, nongovernmental organizations  
18 concerned with environmental quality and ocean resources, citizens, and  
19 local governments. The review must consider and build on the efforts  
20 of the interagency work group that has been examining these issues over  
21 the past year.

22 (2) The center shall organize the review to address at a minimum  
23 the following:

24 (a) Applicable state and federal regulatory and aquatic land  
25 proprietary management requirements, and ways to improve coordination  
26 and the timeline of reviews and approvals;

27 (b) Whether a programmatic environmental analysis of tidal and wave  
28 energy technologies is needed to develop a foundation for state review  
29 of proposed projects; and

30 (c) Current state policies regarding such projects and the need, if  
31 any, for a comprehensive state policy.

32 (3) The center with oversight by the department, shall provide a  
33 report from the stakeholders and agencies, together with any  
34 recommendations for administrative or legislative changes, to the  
35 governor and appropriate committees of the senate and house of

1 representatives by December 31, 2008.

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