

# Senate Bill 195

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Adds exemption for wave energy projects from provisions related to hydroelectric projects. Authorizes Water Resources Commission to adopt rules relating to wave energy projects.

Sunset January 1, 2010.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to wave energy; creating new provisions; amending ORS 543.014; and declaring an emer-  
3 gency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 543.014 is amended to read:

6 543.014. (1) A wave energy project is exempt from regulation under this chapter, except as  
7 provided in ORS 543.050 (3), 543.055 and 543.060 if:

8 [(1)] (a) The project generates electricity from wave energy;

9 [(2)] (b) The project is located within Oregon's Territorial Sea, as defined in ORS 196.405;

10 [(3)] (c) The nominal electric generating capacity, as defined in ORS 469.300, of the project does  
11 not exceed five megawatts; and

12 [(4)] (d) A license under the Federal Power Act, 16 U.S.C. 791a et seq., is not required to either  
13 construct or operate the project.

14 **(2) A wave energy project not covered by the exemption in subsection (1) of this section**  
15 **is exempt from the minimum standards specified in ORS 543.017 if:**

16 **(a) The project generates electricity from wave energy;**

17 **(b) The project is located within Oregon's Territorial Sea, as defined in ORS 196.405;**

18 **(c) The nominal electric generating capacity, as defined in ORS 469.300, of the project**  
19 **does not exceed five megawatts;**

20 **(d) A license under the Federal Power Act, 16 U.S.C. 791a et seq., is required to either**  
21 **construct or operate the project and the license provides for adaptive management to pre-**  
22 **vent or mitigate unexpected adverse impacts on the environment, fish and wildlife resources**  
23 **and commercial fishing and recreation; and**

24 **(e) The project is constructed and operated subject to an agreement with the Water Re-**  
25 **sources Department, State Department of Fish and Wildlife, Department of State Lands,**  
26 **Department of Land Conservation and Development, Department of Environmental Quality,**  
27 **State Department of Energy and State Parks and Recreation Department.**

28 **(3) The agreement specified in subsection (2)(e) of this section:**

29 **(a) Must provide for the collection and analysis of information necessary or desirable to**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **determine, and measures to prevent or mitigate, the impact of the project on the environ-**  
 2 **ment, fish and wildlife resources and commercial fishing and recreation; and**

3 **(b) May be developed with the assistance of an advisory group consisting of represen-**  
 4 **tatives of each local government and federally recognized Indian tribe that is affected by the**  
 5 **wave energy project.**

6 **(4) The Water Resources Commission may adopt rules regarding wave energy projects**  
 7 **that implement the policies of ORS 543.015 and that specify provisions for adaptive manage-**  
 8 **ment and for the distribution of the information specified in subsection (3) of this section.**

9 **SECTION 2.** ORS 543.014, as amended by section 1 of this 2009 Act, is amended to read:

10 543.014. [(1)] A wave energy project is exempt from regulation under this chapter, except as  
 11 provided in ORS 543.050 (3), 543.055 and 543.060 if:

12 [(a)] (1) The project generates electricity from wave energy;

13 [(b)] (2) The project is located within Oregon's Territorial Sea, as defined in ORS 196.405;

14 [(c)] (3) The nominal electric generating capacity, as defined in ORS 469.300, of the project does  
 15 not exceed five megawatts; and

16 [(d)] (4) A license under the Federal Power Act, 16 U.S.C. 791a et seq., is not required to either  
 17 construct or operate the project.

18 [(2) A wave energy project not covered by the exemption in subsection (1) of this section is exempt  
 19 from the minimum standards specified in ORS 543.017 if:]

20 [(a) The project generates electricity from wave energy;]

21 [(b) The project is located within Oregon's Territorial Sea, as defined in ORS 196.405;]

22 [(c) The nominal electric generating capacity, as defined in ORS 469.300, of the project does not  
 23 exceed five megawatts;]

24 [(d) A license under the Federal Power Act, 16 U.S.C. 791a et seq., is required to either construct  
 25 or operate the project and the license provides for adaptive management to prevent or mitigate unex-  
 26 pected adverse impacts on the environment, fish and wildlife resources, and commercial fishing and  
 27 recreation; and]

28 [(e) The project is constructed and operated subject to an agreement with the Water Resources  
 29 Department, State Department of Fish and Wildlife, Department of State Lands, Department of Land  
 30 Conservation and Development, Department of Environmental Quality, State Department of Energy and  
 31 State Parks and Recreation Department.]

32 [(3) The agreement specified in subsection (2) of this section:]

33 [(a) Must provide for the collection and analysis of information necessary or desirable to determine,  
 34 and measures to prevent or mitigate, the impact of the project on the environment, fish and wildlife  
 35 resources, and commercial fishing and recreation; and]

36 [(b) May be developed with the assistance of an advisory group consisting of representatives of each  
 37 local government and federally recognized Indian tribe that is affected by the wave energy project.]

38 [(4) The Water Resources Commission may adopt rules regarding wave energy projects that im-  
 39 plement the policies of ORS 543.015 and that specify requirements for adaptive management and for the  
 40 distribution of the information specified in subsection (3) of this section.]

41 **SECTION 3.** The amendments to ORS 543.014 by section 1 of this 2009 Act apply only to  
 42 wave energy projects for which an application is made to the Department of State Lands on  
 43 or before December 31, 2009, or on or before the date on which the Land Conservation and  
 44 Development Commission adopts amendments to the Territorial Sea Plan pursuant to ORS  
 45 196.471 that address the siting of wave energy projects, whichever is earlier.

1        **SECTION 4.** The amendments to ORS 543.014 by section 2 of this 2009 Act become oper-  
2        ative January 1, 2010.

3        **SECTION 5.** This 2009 Act being necessary for the immediate preservation of the public  
4        peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect  
5        on its passage.  
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