

SB 319 Discussion Document for House Energy & Environment Committee

- 1) **Overview:** SB 319 is the result of a multi-year effort to clarify the regulatory framework for ocean renewable energy research and development. This bill provides statutory support for the Department of State Lands' (DSL) role as the lead agency, consistent with a 2013 amendment to the state's Territorial Sea Plan, in lieu of the regulatory oversight of the Water Resources Department. The legislation ensures that the state retains full authority to regulate any ocean energy project in state waters, and facilitates research and development projects. The bill is sponsored by the entire Coastal Caucus, is supported by the fishing industry, and passed unanimously out of both committee and the floor in the Senate.
- 2) **Reason for this legislation:** In the mid-2000s a dozen wave energy developers obtained preliminary permits from the Federal Energy Regulatory Commission (FERC) to site projects in Oregon's Territorial Sea (0-3 miles offshore). Oregon's regulation of hydroelectric power through the Water Resources Department and its jurisdiction over water rights and hydroelectric license offered the most expeditious path for Oregon to have a seat at the regulatory table. However, WRD's regulatory tools are not well-suited to this new form and location of hydrokinetic energy, where DSL already exercises regulatory authority over removal-fill permits and proprietary (leasing) authority for use of the state's submerged lands. FERC agreed to a request from the state to put a moratorium on issuing new preliminary permits, until the state could complete and submit for federal approval the Part 5 amendment to Oregon's Territorial Sea Plan covering ocean renewable energy. Oregon completed the amendment and obtained federal approval in 2013, ensuring that any project proposed in state waters must be consistent with state policies, and clarifying DSL's lead role.
- 3) **Elements of this legislation:** This bill provides statutory clarity and support for DSL's role, and directs DSL to establish efficient permitting pathways for small-scale research and development pilot projects, and to establish appropriate fee structures that differentiate between pilot projects and potential future utility-scale projects. Specifically, the bill:
 - a. Removes WRD's jurisdiction and designates DSL as the lead agency for ocean energy.
 - b. Eliminates in the Territorial Sea 50 cubic yard exemption for a DSL removal-fill permit, so that the state has an environmental regulatory hook that permits the state to review all projects in the Territorial Sea.
 - c. Directs DSL to evaluate whether, and under what conditions, DSL should establish in rule a general permit or authorization for ocean energy projects that meet certain criteria. Such an outcome would reduce the regulatory cost and time for R&D projects, and allow for the industry's continued development in Oregon. This is needed because elimination of the removal-fill exemption would result in a greater regulatory burden for early-stage ocean energy research and development projects that are small and temporary.
 - d. Makes a number of technical and language corrections to align DSL's existing authorities with the Territorial Sea Plan Part 5 amendment for ocean renewable energy.
 - e. Authorizes DSL to conduct rulemaking that addresses, among other things, an appropriate fee structure that distinguishes between research/pilot projects and utility-scale commercial projects.