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S. 923

To promote the development and use of marine renewable energy technologies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2009

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To promote the development and use of marine renewable energy technologies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Marine Renewable Energy Promotion Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act:

(1) FUND.—The term ''Fund'' means the Adaptive Management and Environmental Fund established by section 3(c).

(2) MARINE RENEWABLE ENERGY.—The term ''marine renewable energy'' means energy from—

(A) waves, tides, and currents in oceans, estuaries, and tidal areas;

(B) free flowing water in rivers, lakes, man made channels, and streams; and

(C) differentials in ocean temperature or ocean thermal energy conversion.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 3. MARINE RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.

(a) RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a marine renewable energy research and development program that is focused on—

(A) developing new marine renewable energy technologies;

(B) reducing the manufacturing and operation costs of marine renewable energy technologies;

(C) increasing the reliability and survivability of marine renewable energy facilities;

(D) integrating marine renewable energy into the national electric grid;

(E) identifying opportunities for cross-pollination and development of economies of scale between offshore wind and marine renewable energy sources;

(F) identifying the environmental impacts of marine renewable energy and ways to address any negative impacts; and

(G)(i) applying advanced systems engineering and system integration methods to identify critical interfaces and develop open standards for marine renewable energy;

(ii) transferring the resulting intellectual property to industry stakeholders as public information through published interface definitions, standards, and demonstration projects; and

(iii) developing incentives for industry to comply with the standards.

(2) ADMINISTRATION.—The program established under paragraph (1) shall be separate from any wind and hydropower program carried out by the Secretary.

(b) MARINE-BASED ENERGY DEVICE VERIFICATION PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a marine-based energy device verification program to provide a bridge from the wave, tidal, current, or thermal energy capture device design and development efforts underway across the industry to commercial deployment of marine renewable energy devices.

(2) PURPOSES.—The purposes of the program are to fund, facilitate the development and installation of, and evaluate marine renewable energy projects, in partnership with the Electric Power Research Institute, the National Renewable Energy Laboratory, the Pacific Northwest National Laboratory Marine Sciences Laboratory, and the Sandia National Laboratories, and in conjunction with universities and other institutions of higher education, private business entities, and other appropriate organizations, in order—

(A) to increase marine renewable energy experience; and

(B) to build and operate enough candidate devices to obtain statistically significant operating and maintenance data.

(3) OBJECTIVES.—The objectives of the program include—

(A) verifying the performance, reliability, maintainability, and cost of new marine renewable energy device designs and system components in an operating environment;

(B) providing States, regulators, utilities, and other stakeholders with a valid opportunity to test and evaluate marine renewable energy technology in new areas;

(C) documenting and communicating the experience from those projects for the benefit of utilities, independent power producers, other nonutility generators, device suppliers, and others in the marine renewable energy development community; and

(D) resolving environmental issues through robust characterization, reliable impact prediction, effective monitoring, development and use of adaptive management, and informing engineering design to improve environmental performance.

(c) ADAPTIVE MANAGEMENT AND ENVIRONMENTAL FUND.—

(1) FINDINGS.—Congress finds that—

(A) the use of marine renewable energy technologies can reduce contributions to global warming;

(B) marine renewable energy technologies can be produced domestically;

(C) marine renewable energy is a nascent industry; and

(D) the United States must work to promote new renewable energy technologies that reduce contributions to global warming gases and improve domestic energy production.

(2) FUND.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Adaptive Management and Environmental Fund'', consisting of such amounts as are appropriated to the Fund under subsection (d).

(B) EXPENDITURES FROM FUND.—

(i) IN GENERAL.—Subject to clause (ii), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide grants to eligible entities to as-

sist the entities in complying with Federal, State, or local regulatory permit requirements through assessment and demonstration of the environmental effects of marine renewable energy projects (including environmental studies, design, fabrication, deployment, operating, monitoring, environmental mitigation, and decommissioning costs).

(ii) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this subsection.

(C) TRANSFERS OF AMOUNTS.—

(i) IN GENERAL.—The amounts required to be transferred to the Fund under this paragraph shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(ii) ADJUSTMENTS.—Proper adjustment shall be made in amounts subse-

quently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(3) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible for a grant under this subsection, an entity shall provide to the Secretary a regulatory permit that includes conditions for the removal of the marine renewable energy project supported by the grant if the permitting authority finds that the marine renewable energy project has an unacceptable adverse impact on the environment.

(B) ADMINISTRATION.—A marine renewable energy project shall not be required to be removed in the absence of a finding by the permitting authority that the project has an unacceptable adverse impact.

(4) PUBLIC AVAILABILITY.—The results of any assessment or demonstration conducted under this subsection shall be made available to the public, except to the extent that the assessment or demonstration contains information that is protected from disclosure under section 552(b) of title 5, United States Code.

(5) AUDIT REQUIREMENTS.—

(A) IN GENERAL.—Any entity that receives a grant under this subsection shall—

(i) track the use of grant funds from the Fund; and

(ii) certify annually to the Secretary that the grant funds were used only for purposes authorized under this subsection.

(B) PROCEDURES.—The Secretary shall establish procedures to ensure that the Secretary is able to oversee and audit the use of funds by eligible entities.

(C) ANNUAL AUDITS.—The Secretary shall conduct an audit, at least annually, of the use of grant funds received under this subsection by each eligible entity.

(D) INELIGIBILITY.—The Secretary may declare an entity ineligible for a grant under this subsection on a finding of inappropriate use of funding.

(6) SUNSET PROVISION.—

(A) REPORT.—The Secretary shall submit a report to the appropriate committees of Congress if the Secretary determines that the technologies and activities supported under this subsection have achieved a level of maturity

that is sufficient to enable the program authorized under this subsection to cease.

(B) TERMINATION.—The program authorized under this subsection and the Fund shall cease to exist effective on the date of submission of a report described in subparagraph (A).

(7) ADMINISTRATION.—The Secretary may use amounts in the Fund to provide assistance to State resource agencies that are processing applications for permits required for marine renewables projects that have received assistance from the Fund to assist staff with understanding and evaluating applications and participating in the applicable Federal Energy Regulatory Commission or Minerals Management Service regulatory process.

(8) ENVIRONMENTAL REQUIREMENT.—Nothing in this section eliminates or otherwise affects any requirement imposed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 2010 through 2021.

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