

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation and Conservation Committee

BILL: SJR 436

INTRODUCER: Senator Bennett

SUBJECT: Oil or Natural Gas Drilling

DATE: March 26, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Kiger	EP	Favorable
2.			JU	
3.			RI	
4.				
5.				
6.				

I. Summary:

This joint resolution proposes a amendment to s. 7, Art. II of the State Constitution to prohibit drilling for oil or natural gas within sovereignty submerged lands of the state and within a specified distance offshore. Directs the Legislature to enact legislation to enforce the provision.

II. Present Situation:

The Outer Continental Shelf (OCS) consists of the submerged lands, subsoil, and seabed, lying between the seaward extent of the States’ jurisdiction and the seaward extent of Federal jurisdiction. The OCS lands are leased by the federal government to the oil and gas industry for the exploration, development, and production of oil and gas. There is estimated to be between 6.95 and 9.22 trillion cubic feet of natural gas and 1.57 and 2.78 billion barrels of oil and condensate contained in the Eastern Gulf of Mexico Planning Area. Drilling for natural gas and oil has been occurring in the Eastern Gulf of Mexico offshore from Alabama and Florida for more than three decades. The first of 11 natural gas and oil lease sales held offshore from Florida occurred in 1959 and resulted in the issuance of 23 leases. Additional lease sales have been held periodically in the Eastern Gulf from 1973 through 2003. Currently, there are 241 active leases in the Eastern Gulf of Mexico Planning Area.¹

Two bills were introduced for consideration by the 109th Congress – H.R. 4761 (Deep Ocean and Energy Resources Act of 2006) and S. 3711 (Gulf of Mexico Energy Security Act of 2006.) Ultimately, the provisions of S. 3711 were amended onto H.R.6111, Tax Relief and Health Care

¹ Interim Project Report 2007-118, *Offshore Drilling: A Review of the Federal Process*, Senate Environmental Preservation Committee, November 2006, pg. 5.

Act of 2006. H.R. 6111 was signed into law by President George W. Bush on December 20, 2006. As provided in Division C, Title I—Gulf of Mexico Energy Security, of the act, new areas are opened up in the Gulf of Mexico to oil and gas exploration. However, the act provides a moratorium until June 30, 2022, for oil and gas leasing and related activities in the following areas:

- Any area east of the Military Mission Line in the Gulf of Mexico (86 degrees and 41 minutes W. longitude);
- Any area in the Eastern Planning Area that is within 125 miles of the Florida coastline;
- Any area in the Central Planning Area that is
 - Within the 181 Area and 100 miles of the Florida coastline; or
 - Outside the 181 Area, east of the western edge of the Pensacola Official Protraction Diagram, and within 100 miles of the coastline of the State of Florida.²

This effectively provides a no-drill buffer for Florida 125 miles south of Pensacola and over 235 miles from Tampa until 2022.

Lease Area 181 is the closest active leasing region to Florida’s coastline that is under the jurisdiction of the United States.

The state of Florida’s jurisdiction over the OCS is 3 marine leagues (approximately 9 nautical miles) seaward from the shoreline. The Federal jurisdiction over the OCO is defined under accepted principles of international law. The seaward limit is defined as the farthest of 200 nautical miles seaward of the shoreline or, if the continental shelf can be shown to exceed 200 nautical miles from the 2,500-meter isobath³ or a line 350 nautical miles from the shoreline.⁴

Currently, the Florida Constitution is silent regarding drilling for oil or natural gas within sovereign submerged lands. However, s. 253.61, F.S., expressly prohibits the Board of Trustees of the Internal Improvement Trust Fund from granting any “oil or natural gas lease” on state-owned submerged lands off the State’s west coast. A similar provision in s. 377.24, F.S., prohibits the Department of Environmental Protection from issuing a permit “to drill a well in search of oil or gas” on the same state-owned submerged lands.

III. Effect of Proposed Changes:

This Senate Joint Resolution proposes an amendment to s. 7, Art. II of the State Constitution to provide that drilling for oil or natural gas is prohibited within sovereignty submerged lands bordering on the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida and within 250 miles waterward of the coastline to the maximum extent allowed by the laws of the United States. The Legislature is required to enact legislation to enforce this provision.

The amendment is to be presented to the electors of the state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

² H.R. 6111, page 196.

³ Isobath—an imaginary line or one drawn on a map connecting all points of equal depth below the surface of a body of water.

⁴ www.gomr.mms.gov/homepg/whoismms/whatsocs.html

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

This bill does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Art. VI, paragraph 2 of the U.S. Constitution is known as the Supremacy Clause and reads:

“This Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

This Supremacy Clause appears to preempt the legal application of this joint resolution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This joint resolution appears to give the voters of this state a chance to voice their desire in the State Constitution with respect to the exploration and drilling for oil and natural gas off the coast of Florida.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
