HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1219 Environmental Control
SPONSOR(S): Agriculture & Natural Resources Policy Committee, Van Zant
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2294

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee	7 Y, 5 N, As CS	Blalock	Reese
2)	Energy & Utilities Policy Committee		Blalock	Hamby
3)	General Government Policy Council			
4)	Natural Resources Appropriations Committee			
5)				

SUMMARY ANALYSIS

This bill directs the Department of Environmental Protection (DEP) to develop a plan, including legislative recommendations, to implement an offshore oil and natural gas drilling program. The plan must include an expedited permitting process for all offshore and onshore activities associated with the development and construction of facilities and the production, transportation, and distribution of oil and natural gas products. The plan must be submitted to the President of the Senate and the Speaker of the House of Representatives no later than December 31, 2009.

This bill does not appear to have a significant fiscal impact on state or local governments.

This bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The federal government manages natural resources, including oil and natural gas, on the outer continental shelf, while the states manage the resources directly off their coasts. The Outer Continental Shelf Lands Act, as amended, is the principal federal law governing mineral activities in federal waters. It was written to guide decisions concerning the exploration for the development of oil, natural gas and other mineral resources on the outer continental shelf (OCS).

The 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. Currently, the OCS supplies more than 25 percent of the country's natural gas production and more than 30 percent of total domestic oil production. The offshore areas of the United States contain the majority of future oil and gas resources. It is estimated that 60 percent of the oil and 59 percent of the gas yet to be discovered in the United States are located in the OCS.[1]

There are four separate regions of the OCS, including:

- The Gulf of Mexico OCS Region,
- The Atlantic OCS Region,
- The Pacific OCS Region, and
- The Alaskan OCS Region.

The Gulf of Mexico OCS Region is currently divided into three separate offshore drilling areas:

- The Western Planning Area,
- The Central Planning Area, and
- The Eastern Planning Area.

The Eastern Planning Area starts on the western coastline of Florida and extends west to a line that is approximately south of Pensacola, Florida into the Gulf.[2] Estimates suggest that 6.95 to 9.22 trillion

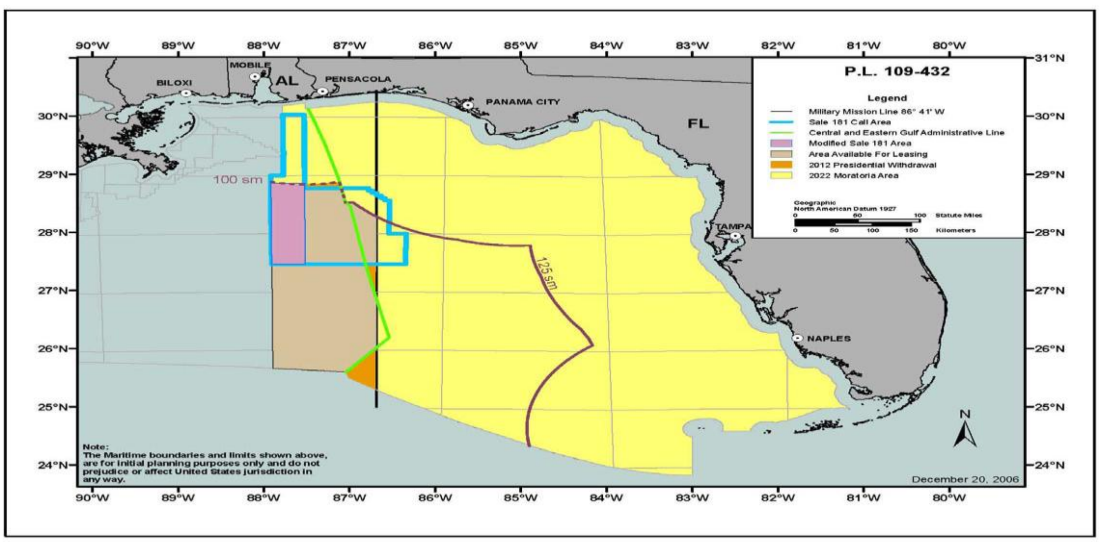
[1] http://www.mms.gov/offshore/.
[2] See Figure 1.

cubic feet of natural gas and 1.57 to 2.78 billion barrels of oil and condensate are in the Eastern Planning Area.[3]

The Gulf of Mexico Energy Security Act of 2006 (HR 6111) was passed by the United States Congress and signed into law by President George W. Bush on December 20, 2006. This law opens up some areas of the western Gulf of Mexico to offshore drilling. However, partly because of the potential impact on environmentally sensitive areas along Florida's coastline, it also temporarily halts leasing for oil or natural gas drilling in any Gulf of Mexico region east of the Military Mission Line (86 degrees and 41 minutes W. longitude). Furthermore, it prohibits drilling in any region of the Eastern Planning Area within 125 miles of the Florida coast or any region that is within the Central Planning Area, Lease Area 181, and also within 100 miles of the Florida coastline.[4] The jurisdiction of the United States for the Gulf of Mexico extends from 200 miles up to a possible length of 350 miles offshore.[5] This prohibition is set to expire on June 30, 2022. Lease Area 181 is the closest active leasing region to Florida's coastline that is under the jurisdiction of the United States. Leases do currently exist in the Eastern Planning Area, but active drilling may only take place in those areas that are both 125 miles seaward of Florida's coastline and west of the Military Mission Line.[6]

The federal government has retained its authority for the use of OCS, and, therefore, the Supremacy Clause of the United States Constitution prevents Florida from interfering with the offshore drilling prohibition.[7] The Supremacy Clause provides that "*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.*" Thus, Florida's authority to regulate offshore drilling in the Gulf of Mexico OCS Region is limited by the authority designated to it by Congress. Under current law, this means that Florida's authority to regulate waters in the Gulf of Mexico extends to approximately nine nautical miles.[8] Oil and natural gas reserves are generally located more than nine miles from Florida's shoreline.

<u>Figure 1.</u>



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[3] U.S. Department of the Interior, Minerals Management Service, ttp://www.gomr.mms.gov/homepg/offshore/egom/eastern.html.
[4] U.S. HR 6111. Also See Figure 1.
[5] U.S. Department of the Interior, Minerals Management Service, http://www.gomr.mms.gov/homepg/whoismms/whatsocs.html.
[6] See Figure 1.
[7] United States Constitution, Article VI, Section 2.
[8] See *US v. Louisiana, et al*. 363 U.S. 1, 129 (1960).

In addition to the Congressional moratorium on offshore drilling in the eastern Gulf of Mexico, President George H.W. Bush, signed an executive order in 1990 establishing a moratorium on new oil and gas leasing in the OCS. However, In July of 2008, in response to record breaking gas prices President George W. Bush lifted this presidential ban. Therefore, the Congressional moratorium is the only law in effect blocking the leasing of areas within the Eastern Gulf of Mexico off Florida's coastline for the purpose of drilling for oil and natural gas.

On September 30th, 2008, President George W. Bush signed a stop-gap funding bill, which partly lifted the Congressional moratoria on oil and gas leasing on significant portions of the OCS. Through the annual appropriations process, Congress had restricted such activities in approximately 85% of the OCS, including off the Atlantic and Pacific coasts as well as a small portion of the eastern Gulf of Mexico. This year, however, in the face of growing public support for OCS oil and gas development and the threat of a Presidential veto, Congress did not include the leasing prohibition in legislation funding federal government agencies and programs beyond September 30, 2008. However, the statutory ban established in 2006 detailed above is still in effect and therefore areas in the eastern Gulf of Mexico off of Florida's coastline will not be available for leasing until at least 2022.

Currently, the Florida Constitution is silent regarding drilling for oil or natural gas within sovereign submerged lands. However, under the provisions of Chapter 253, F.S., the Governor and Cabinet sitting as the Trustees of the Internal Improvement Trust Fund have been granted the powers and duties with regard to the control of private uses of state-owned submerged lands. These state-owned submerged lands extend waterward from the shoreline for approximately 9 nautical miles into the Gulf of Mexico OCS Region. Section 253.61, F.S., prohibits the Trustees 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.

Therefore, any plan developed by the DEP implementing an offshore oil and natural gas drilling program could not be implemented until after the Congressional ban is lifted and Florida law is amended to allow the granting of oil and natural gas leases on state-owned submerged lands.

<u>Effect of Bill</u>

This bill directs the Department of Environmental Protection (DEP) to develop a plan, including legislative recommendations, to implement an offshore oil and natural gas drilling program. The plan must include an expedited permitting process for all offshore and onshore activities associated with the development and construction of facilities and the production, transportation, and distribution of oil and natural gas products. The plan must be submitted to the President of the Senate and the Speaker of the House of Representatives no later than December 31, 2009.

B. SECTION DIRECTORY:

Section 1: Creates an unnumbered statutory section relating to the development of a plan for implementing an offshore oil and natural gas drilling program.

Section 2: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 24, 2009, the Agriculture and Natural Resources Policy Committee adopted one strike-all amendment to this bill. The strike-all amendment deleted the requirement that the Department of Environmental Protection develop a plan to implement an expedited permitting process for the development and construction of nuclear power plants that reduces the amount of time for granting such a permit by half.