HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 1219 Environmental Control
SPONSOR(S): General Government Policy Council, 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	(ref. removed)		
3)	General Government Policy Council	10 Y, 6 N, As CS	Blalock	Hamby
4)	Natural Resources Appropriations Committee	(ref. removed)		
5)	Policy Council	17 Y, 7 N, As CS	Blalock	Hogge

SUMMARY ANALYSIS

This bill creates additional requirements for the Board of Trustees of the Internal Improvement Trust Fund (Board) pertaining to the acceptance of bids and granting of offshore oil and gas leases on state-owned submerged lands underlying the territorial waters off the east and west coasts of the state. The bill requires that the Board accept, on or before September 1 of each year, a nomination from a bidder or bidders for the purchase of oil and gas leases on any area, tract, or parcel, as designated by the bidder, of submerged land underlying the territorial waters of the State of Florida. All bids submitted to the Board must include:

- A nonrefundable bid submittal fee of $1 million;
- Documentation stating that all equipment or structures above the surface of the water and related to the development and production of oil and gas within the territorial waters of the state are to be situated no closer than 3 miles from the mean high water line;
- A statement and map indentifying the blocks, tracts, or parcels, as designated for the gas lease or leases;
- A statement of a cash consideration; and
- A statement of a royalty, never less than $1/8^{th}$ in kind, or in value, however, upfront payments in lieu or royalties can be proposed and may reduce the minimum $1/8^{th}$ royalty.

The bill provides a process for submittal and consideration of competing bids, and authorizes the Board to reject all bids based on specified criteria including the public welfare. This bill also provides that royalties, cash considerations, annual rentals, or payments in lieu of royalties collected for oil and gas leases for submerged lands within the territorial waters of the state must be appropriated for the following purposes:

- To fund a bond initiative to provide up to $300 million per year for the Florida Forever land acquisition program, including up to an additional $15 million for reasonable management costs for administering said lands.
- Up to $20 million per year for local governments to support beach restoration and nourishment projects.
- Up to $20 million per year to be distributed to coastal local governments within the county or counties within which the lease or leases are issued.

The bill also removes the prohibition against:

- Granting leases on state-owned submerged land underlying the territorial waters off the east and west coasts of the state;
- Granting permits to drill a well in search of oil or gas within the territorial waters off the east and west coasts of the state; and
- Permitting or constructing structures intended for the drilling for, or production of, oil, gas, or other petroleum products within the territorial waters off the east and west coasts of the state.

This bill appears to have a positive fiscal impact on state and local governments (see fiscal comments below).
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:

BACKGROUND

Federal Law

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.[1] The Outer Continental Shelf Lands Act (OCSLA), 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.[2]

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.[3] Estimates suggest that 6.95 to 9.22 trillion

[1] Florida's territorial boundary extends from the mean high water line seaward 9 nautical miles (10.36 miles).
[2] http://www.mms.gov/offshore/.
[3] 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.[4]

One of the requirements of OCSLA is compliance with the National Environmental Policy Act (NEPA). NEPA documents required by OCSLA include Environmental Impact Statements and Environmental Assessments. Under the OCSLA, the mineral resources are managed by the U.S. Department of the Interior (DOI) to assure their orderly development while protecting human, marine and coastal resources and ensuring that the public receives fair market value for the minerals. Within the DOI, the Mineral Management Service (MMS) is the federal agency that manages the nation's natural gas, oil, and other mineral resources on the OCS. The MMS also collects, accounts for, and disburses more than $8 billion per year in revenues from federal offshore mineral leases and from onshore mineral leases on Federal and Indian lands.

In 1972, Congress enacted the Coastal Zone Management Act (CZMA) in response to declining coastal water quality that resulted in the closing of shellfish beds and swimming beaches, and the decline of commercial and recreational fisheries. The CZMA sought to preserve, protect, develop, and where possible, to restore and enhance the resources of the nation's coastal zone. It encouraged coastal states to develop and implement comprehensive management programs that would balance the need for coastal resource protection with the need for economic growth and development in the coastal zone. If the management program developed by the coastal state is approved by the U.S. Department of Commerce National Oceanic and Atmospheric Administration's (NOAA), the state is authorized to review certain federal activities affecting the land or water uses or natural resources of its coastal zone for consistency with its program. This authority is referred to as “federal consistency” and allows states to review:

- Activities conducted by or on behalf of a federal government agency;
- Federal licenses or permits;
- Permits issued under the Outer Continental Shelf Lands Act for offshore minerals exploration or development; and
- Federally funded activities.

The CZMA requires federal agency activities (i.e., “direct” agency activities) to be fully consistent with a state’s approved coastal management program, unless full consistency is prohibited by federal law. Federal permit and funding decisions (i.e., “indirect” activities) must also be fully consistent with the state’s approved coastal management program. Federal agencies comply with these requirements by providing the state with a statement of consistency and the necessary data and information to support the assertion prior to taking a final action on a proposed activity. The information provided to the state in support of the consistency statement must include all information reasonably necessary for the state to determine the project's consistency with its program. The state must concur or object to the consistency of the federal activity according to procedures and timelines in the federal regulations at 15 CFR 930.

Disagreements between a state and a federal agency on the consistency of a “direct” federal activity can be mediated by the Secretary of the U.S. Department of Commerce. If a state determines that a proposed federal permitting or funding activity is inconsistent with the authorities included in the state's approved program, the federal agency is prohibited from granting the permit or funds. In such a case, however, the applicant for the permit or funds may request that the Secretary of the U.S. Department of Commerce override the state’s decision on the grounds that, despite being inconsistent with the state coastal Management program, the proposed action is consistent with the purposes of the CZMA or is otherwise necessary in the interest of national security.

Florida’s Coastal Management Program (FCMP) was approved by NOAA in 1981. Under the authority granted from the OSCLA and CZMA, the Florida Department of Environmental Protection (DEP) reviews activities proposed in federal waters on the outer continental shelf to ensure these activities do not adversely affect state resources. OCS Program staff coordinates State reviews of OCSLA

[4] U.S. Department of the Interior, Minerals Management Service, ttp://www.gomr.mms.gov/homepg/offshore/egom/eastern.html.

documents, NEPA documents, CZMA reviews, proposed laws, rules, information requests, and other materials associated with offshore activities. Staff provides technical analyses, recommendations and expertise; communicate state policy and develop state responses on OCS issues.

Since 1990, Florida law has prohibited oil or natural gas leases from being granted, sold, or executed for sovereign submerged lands within the territorial waters of the state[5], has prohibited any permits to drill a well in search of oil or gas from being granted within the territorial waters of the state[6], and has prohibited the permitting and construction of structures intended for the drilling or production of oil and gas within the territorial waters of the state.[7] Under this state policy, the DEP has on numerous occasions used the consistency provision in the CZMA to block offshore drilling from occurring in federal waters off its coast. Specifically, in February 1998, Florida rejected Chevron's plan to build the first ever production oil and gas drilling operation just 25 miles off Florida's panhandle coast. The state concluded that offshore drilling is inconsistent with Florida's plan for managing its coastal natural resources. Likewise, Union Oil and Mobil Oil, which are federal lessees of OCS tracts off southwest Florida that were acquired in Lease Sale 79, submitted proposed exploration plans and consistency determinations to Florida pursuant to section 307(c)(3)(B). The then named Florida Department of Environmental Regulation (FDER) objected to Union's consistency certification and determined that the biological, oceanographic, and socioeconomic information was insufficient to assess the environmental and socioeconomic effects of exploration and demonstrate consistency with Florida's coastal zone management program. The FDER made a similar finding regarding Mobil's consistency determination. Both companies appealed to the Secretary of Commerce, who rejected their appeals.

In 1987, 1989 and 1995, Chevron U.S.A. drilled three discovery wells in the Destin Dome Planning area known as Destin Dome Blocks 56 and 57 located approximately 25 miles south of Pensacola (See Figure 1 below). All three wells found significant quantities of natural gas. In the latter part of 1996, development plans were filed by Chevron U.S.A. and partners on its Destin Dome 56 Unit. The MMS commenced preparation of a development Environmental Impact Statement (EIS) for Chevron's Destin Dome 56 project in late 1997. The draft EIS was distributed to the public and hearings were held in August/September 1999. The State of Florida objected to Chevron's consistency findings on the Destin Dome 56 Project in February 1998. Chevron appealed the State's objection to the U.S. Department of Commerce in April 1998. The Department of Commerce published a Notice of Appeal in the Federal Register in July 1998. A public hearing on this issue was held in September 1999. On July 24, 2000, Chevron U.S.A., Conoco Inc., and Murphy Exploration & Production Company filed a lawsuit against the U.S. Government for denying the companies "timely and fair review" of plans, permits, and an appeal concerned with the Destin Dome 56 Unit Development Plan. They alleged this action constituted a "taking" and that the Government delayed and ultimately blocked the partners from developing the field. The lawsuit sought compensation for lease bonuses and rentals paid, exploration costs, expenses incurred on environmental studies, and opportunity costs associated with the project. On May 29, 2002, Secretary Gale Norton announced that the Department had agreed in principle to settle litigation with oil companies that own interests in the Destin Dome Unit. The companies--Chevron, Conoco and Murphy Oil--relinquished seven of nine leases in the unit that were the subject of the litigation in exchange for $115 million. The remaining two leases, Destin Dome Blocks 56 and 57, are to be held by Murphy and will be suspended until at least 2012, under the terms of the agreement. Murphy has agreed not to submit a development plan on the two remaining leases before 2012, the year when the current moratoria will expire. Under the terms of the agreement, the leases cannot be developed unless approved by the Federal Government and State of Florida.

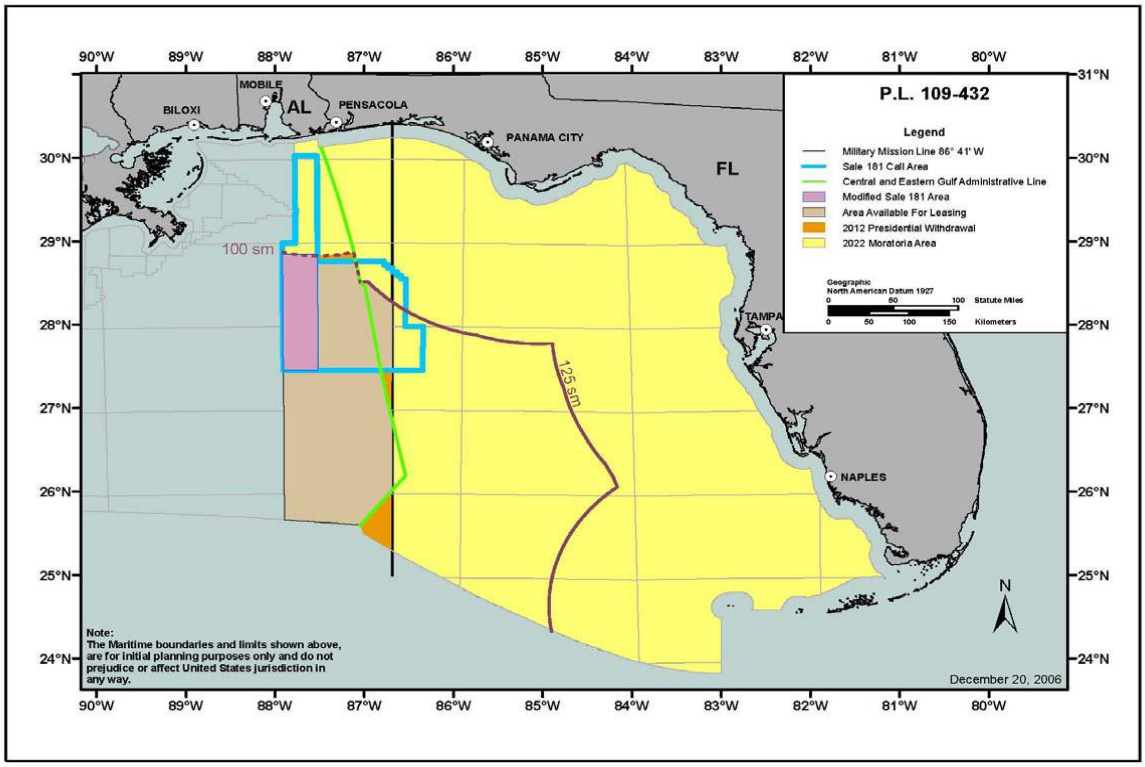
[5] Section 253.61(1)(d), F.S.
[6] Section 377.24(9), F.S.
[7] Section 377.242(1)(a)5., F.S.

Figure 1

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 oil and gas leases. 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 (See Figure 2 below).[8] The jurisdiction of the United States for the Gulf of Mexico extends from 200 miles up to a possible length of 350 miles offshore.[9] 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.[10]

[8] U.S. HR 6111. Also See Figure 1.
[9] U.S. Department of the Interior, Minerals Management Service, http://www.gomr.mms.gov/homepg/whoismms/whatsocs.html.
[10] See Figure 1.

Figure 2



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.

Florida Law

Oil and Gas Leases in State-owned Submerged Lands

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 (Board) 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 seaward from the mean high water line for approximately 9 nautical miles (10.35 miles) into the Gulf of Mexico OCS Region. The Board holds title in trust for the use and

benefit of the people of Florida, and it has the power to grant oil and gas leases in the bottoms of the bays, lagoons, straits, sounds, gulf, streams, and lakes within the state that are owned by the state in its sovereign capacity.[11] The Board is authorized to negotiate, sell, and convey leasehold estates in and to state-owned lands, for the purpose of developing and producing oil and gas.[12] Whenever the Board believes that there is a demand for the purchase of an oil or gas lease on any area, parcel, or tract of state-owned land, the Board must place the lease on the market.[13] The Board must approve and consent to all assignments of leases.[14]

Before parties may enter into a lease agreement, the Board must give legal notice and, in certain cases, hold a public hearing.[15] Before advertising any land for lease, the Board must prescribe the form of the lease to be offered for sale and make copies of it available to the general public.[16] All public land must be leased via sealed bids directed to the Board. Bids may not be opened until the day, time, and place designated by the Board and provided in the notice. The bids must be for cash consideration and are payable on acceptance of the bid.[17]
The Board must determine in advance the amount of royalty, and a definite rental, on lands not developed for oil or gas.

On the date specified in the advertisement of sale, the Board must hold a public meeting and open and consider all bids properly submitted. The Board may award the lease to the highest and best bidder. However, if the Board determines that the bids do not represent the fair value of the lease, the execution of the lease is contrary to the public welfare, or the responsibility of the bidder offering the highest amount is not established to its satisfaction, the Board may reject the bids, give notice and call for new bids, or withdraw the land from the market.[18] Before accepting any bid for an oil or gas lease, the Board must establish the responsibility of the bidder to its satisfaction.[19] Moreover, the Board may require a surety or property bond, an irrevocable letter of credit, or other proof of financial responsibility from each lessee of public land or mineral interest, prior to the time the lessee mines, drills or extracts gas or oil from the land.[20] Each application for an oil and gas lease must submit, to the state agency issuing the lease, a certified statement as to any lease holdings regarding oil and gas the applicant has which were granted by the same state agency. The statement must include the number and identity of the leases issued and the state agency that issued them.[21]

Leases of state-owned lands are for a primary term that cannot exceed 10 years from the date of the lease. A lease will not automatically renew upon expiration of the primary term; however, it will remain in effect as long as the operations are carried out in good faith and in a skillful and diligent manner with no cessation of more than 30 days.[22]

Before an oil and gas lease may be executed on state-owned lands within the corporate limits of a municipality, the governing authority of the municipal corporation must consent to the grant or sale of the lease.[23] The same is true of a lease of state-owned lands in the tidal waters of the state that abut, or are immediately adjacent to, the corporate limits of a municipality.[24] Execution of an oil and gas lease on an improved beach located outside an incorporated municipality, or on lands in the tidal waters of the state that abut or are immediately adjacent to an improved beach, or within three miles of an

[11] Section 253.47, F.S.
[12] Section 253.51, F.S.
[13] Section 253.52, F.S.
[14] Section 253.56, F.S.
[15] Section 253.52, F.S.
[16] Section 253.52, F.S.
[17] Section 253.53, F.S.
[18] Section 253.54, F.S.
[19] Section 253.56, F.S.
[20] Section 253.571, F.S.
[21] Section 253.512, F.S.
[22] Section 253.55(1), F.S.
[23] Section 253.61(1)(a), F.S.
[24] Section 253.61(1)(b), F.S.

improved beach extending from the line of mean high tide into such tidal waters, is prohibited unless the county commissioners of the county in which such beach is located have first consented.[25]

Permitting of Oil and Gas Drilling in State-owned Submerged Lands

The Department of Environmental Protection (DEP) is vested with the power and authority to issue permits:

- For the drilling for, exploring for, or production of oil, gas, or other petroleum products that are to be extracted from below the surface of the land, including submerged land, only through the well hole drilled for oil, gas, and other petroleum products;[26]
- To explore for and extract minerals that are subject to extraction from the land by means other than through a well hole; and[27]
- To construct wells for the injection and recovery of any natural gas for temporary storage in subsurface reservoirs.[28]

Before any well in search of oil or gas is drilled, the person desiring to drill the same must notify the Division of Resource Management (Division) upon such form as it may prescribe and must pay a reasonable fee set by rule of DEP not to exceed the actual cost of processing and inspecting for each well. The drilling of any well is prohibited until such notice is given and the fee has been paid and permit granted.[29] Each permit must contain an agreement by the permit-holder that he or she will not prevent inspection by the Division personnel at any time.[30] The Division, in the exercise of its authority to issue permits, must give consideration to and be guided by certain statutorily specified criteria.[31] However, as provided above and without exception, DEP is prohibited from issuing a permit to drill a well in search of oil or gas on state-owned submerged lands within the territorial waters of the state.[32] Under certain circumstances, before a permit to drill a gas or oil well is granted, the governing authority of the municipality[33] or the county commissioners of the county[34] in which the land is located must have first duly approved the application for the permit by resolution

EFFECT OF BILL

Oil and Gas Leases in State-owned Submerged Lands

This bill amends s. 253.52, F.S., to require that the Board of Trustees of the Internal Improvement Trust Fund (Board) to accept, on or before September 1 of each year, a nomination from a bidder or bidders for the purchase of oil and gas leases on any area, tract, or parcel, as designated by the bidder, of submerged land underlying the territorial waters of the State of Florida. All bids submitted to the Board must include:

- A nonrefundable bid submittal fee of $1 million in addition to and separate from any cash consideration that may be provided as part of the bid;
- Documentation stating that all equipment or structures above the surface of the water and related to the development and production of oil and gas within the territorial waters of the state are to be situated no closer than 3 miles from the mean high water line;
- A statement and map indentifying the blocks, tracts, or parcels, as designated for the gas lease or leases;
- A statement of a cash consideration; and

[25] Section 253.61(1)(c), F.S.
[26] Section 377.242(1), F.S.
[27] Section 377.242(2), F.S.
[28] Section 377.242(3), F.S.
[29] Section 377.24(1), F.S.
[30] Section 377.242, F.S.
[31] Section 377.241, F.S.
[32] Section 377.24(9), F.S.
[33] Section 377.24(5) and (6), F.S.
[34] Section 377.24(7), F.S.

- A statement of a royalty, never less than 1/8th in kind, or in value, however, upfront payments in lieu or royalties can be proposed and may reduce the minimum 1/8th royalty.

All bids must be accompanied by a cashier's check, or certified check, for the amount of cash consideration and application fee, and must be payable to the state board, department, or agency which holds title to or controls the land sought to be leased.

Within 14 days of receiving the bid, the Board must give notice by publication in the Florida Administrative Weekly and in a newspaper of general circulation published in the vicinity of the proposed lease or leases. Other interested parties have 90 days from the date of publication of the notice to submit a competing bid for the same blocks, tracts, or parcels as was designated in the original bid and published in the notice. The Board has no more than 30 days from the date the bid period closes to review all bids and determine whether or not each bid contains all of the information required. Any bid determined not to contain all of the information will be returned to the bidder and may not be further considered. Once the Board determines that a bid or bids contain all the required information, the Board must within 30 days select the highest and best of the bids. However, if the Board determines that the bids submitted do not represent the reasonable fair value of such lease or leases, the execution of the bids are reasonably determined to be contrary to the public welfare, or the responsibility of the bidder offering the highest amount has not reasonably been established to its satisfaction, then the Board can reject the bids. All information included in all bids not selected by the Board must be returned to the bidder, including all checks or other financial assurances except for the $1 million nonrefundable bid submittal fee.

The Board has no more than 90 days to negotiate any outstanding matters with the winning bidder and award the lease or leases. Affirmative action by the Board to approve any such lease requires the approval of the Governor and at least two other members of the Board. If this bidding process conflicts with other bidding processes found in s. 253.53, F.S., and s. 253.54, F.S., then the provisions in this section will control the nomination and award for the purchase of oil and gas leases.

If a bidder who obtains an oil and gas lease under the provisions of s. 253.52(2), F.S., above, fails to be issued a permit for geophysical operations, drilling, or exploring and extracting through well holes or by other means within 24 months of receiving the lease, then the Board must refund the entire cash consideration with interest paid.

If the Board awards an oil and gas lease, then the lessee is entitled to obtain an easement or easements over sovereign submerged lands for the construction, installation, and maintenance of any pipeline or associated infrastructure that is an appurtenance to the transportation of oil and gas from the leased submerged lands to shore-based facilities. The fee for this easement is to be based on a cost per linear foot basis and may not exceed $5 per linear foot.

This bill amends s. 253.571, F.S., to provide that the Board can only require a lessee to provide proof of financial responsibility once. The bill provides that a surety bond, letter or credit, or other proof of financial responsibility from each lessee of public land or mineral interest for submerged lands underlying the territorial waters of the state are not to exceed the lesser amount of either:

- $500 million; or
- A calculated cost estimate for potential damages related to air, water, and ground pollution, destruction of wildlife or marine productivity and any other damage which impairs the health and welfare of the citizens of the state based on reasonable foreseeable accidents or occurrences associated with the particular oil and gas development or production activity within the immediate area of the oil and gas lease.

A surety or property bond, letter of credit, or other proof of financial responsibility is the only proof of financial responsibility a lessee must provide, in lieu of any other proof of financial responsibility that may be required by any agency for any permit or authorization that must be obtained in connection with the development and production of oil and gas.

This bill creates s. 253.585, F.S., to provide that royalties, cash considerations, annual rentals, or payments in lieu of royalties collected for oil and gas leases for submerged lands within the territorial waters of the state must be appropriated for the following purposes:

- To fund a bond initiative to provide up to $300 million per year for the Florida Forever land acquisition program, including up to an additional $15 million for reasonable management costs for administering said lands.
- Up to $20 million per year for local governments to support beach restoration and nourishment projects.
- Up to $20 million per year to be distributed to coastal local governments within the county or counties within which the lease or leases are issued.

The bill grants DEP's Division of State Lands, as staff to the Board, with the authority to promulgate rules to administer this section.

This bill amends s. 253.61, F.S., to provide that leases of submerged lands underlying the territorial waters of the state where any structure or equipment above the surface of the water is more than 3 miles from a municipality are not required to have such municipality give prior consent to granting of the lease. This bill also provides that leases of submerged lands underlying the territorial waters of the state where any structure or equipment above the surface of the water is more than 3 miles from an improved beach are not required to have the county commissioners of the county where such beach is located give prior consent to granting of the lease. This bill also deletes the provision in this section prohibiting any leases from being granted, sold, or executed within the territorial seas off the east and west coasts of the state.

Permitting of Oil and Gas Drilling in State-owned Submerged Lands

This bill amends s. 377.24, F.S., to provide that leases of submerged lands underlying the territorial waters of the state where any structure or equipment above the surface of the water is more than 3 miles from a municipality are not required to receive prior consent from such municipality before being granted a permit to drill a gas or oil well within 3 miles of the municipality. This bill also provides that leases of submerged lands underlying the territorial waters of the state where any structure or equipment above the surface of the water is more than 3 miles from an improved beach are not required to have the county commissioners of the county where such beach is located give prior consent before being granted a permit to drill a gas or oil well within 3 miles of such improved beach. This bill also deletes the provision in this section prohibiting any permits to drill a well in search of oil and gas from being granted within the boundaries of Florida's territorial seas off the east and west coasts of the state.

This bill amends s. 377.242, F.S., to delete the prohibition of permitting or constructing any structures intended for the drilling for, or production of, oil, gas, or other petroleum products within the boundaries of Florida's territorial seas off the east and west coasts of the state. This bill also provides that the prohibition on the DEP from permitting the following does not apply to pipelines for the purpose of transporting off-shore production on-shore:

- Structures intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed on any submerged land within any bay or estuary;
- Structures intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile seaward of the coastline of the state;
- Structures intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile of the seaward boundary of any state, local, or federal park or aquatic or wildlife preserve or on the surface of a freshwater lake, river, or stream; and
- Structures intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary or within 1 mile of any freshwater lake, river, or stream

unless the department is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.

Prohibitions 1 through 3 above also do not apply to permitting or construction of offshore structures intended for exploration or production of oil, gas, or other petroleum products where any structure or equipment above the surface of the water is more than 3 miles seaward from the mean high tide line.

This bill amends s. 377.2425, F.S., to delete language to conform to other changes in the bill

B. SECTION DIRECTORY:

Section 1: Amends s. 253.52, F.S., relating to placing oil and gas leases on the market by the Board of Trustees of the Internal Improvement Trust Fund.

Section 2: Amends s. 253.571, F.S., relating to proof of financial responsibility required of lessee prior to commencement of drilling.

Section 3: Creates s. 253.585, F.S., relating to the distribution of royalties, cash considerations, annual rentals, or payments in lieu of royalties collected for oil and gas leases for submerged lands within the territorial waters of the State of Florida.

Section 4: Amends s. 253.61, F.S., relating to lands not subject to lease.

Section 5: Amends s. 377.24, F.S., relating to notice of intention to drill wells.

Section 6: Amends s. 377.242, F.S., relating to permits for drilling or exploring and extracting through well holes or by other means.

Section 7: Amends s. 377.2425, F.S., relating to the manner of providing security for geophysical operations, drilling, and production.

Section 8: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill appears to have a potential, significant positive fiscal impact on state government revenues though the $1 million nonrefundable application fee and the potential royalties collected from the production of oil and gas.

2. Expenditures:

   The processing of nominations for leases and permit applications provided in the bill will create additional work load for the Department of Environmental Protection.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill appears to have a potential positive fiscal impact on local government revenues of up to $20 million for beach restoration projects, and an additional $20 million fiscal impact on local governments within the county or counties within which lease or leases are issued.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could have a potential positive impact on the private sector if leases are granted and oil and gas are produced. The bill has a negative fiscal impact of $1 million for those in the private sector that submit bid proposals to the Board for the purchase of oil and gas leases.

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:

This bill grants the Division of State Lands within the Department of Environmental Protection with rulemaking authority to implement the royalty distribution provisions in the bill.

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 (DEP) 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.

On April 14, 2009, the General Government Policy Council adopted one amendment to this bill. The amendment specified that the offshore oil and natural gas drilling plan required in the bill to be developed by the DEP must provide protection to Florida's environment while facilitating the recovery and distribution of offshore oil and natural gas reserves.

On April 21, 2009 the Policy Council adopted one strike-all amendment. The strike-all amendment made the following revisions to the bill:

- Removed the provision in the bill requiring DEP to adopt a plan for the implementation of an offshore oil and natural gas drilling program.
- Established additional procedures for the Board of Trustees of the Internal Improvement Trust Fund to follow pertaining to the accepting of bids and granting of offshore oil and gas leases on state-owned submerged land underlying the territorial waters off the east and west coasts of the state.
- Removed the prohibition against granting leases on state-owned submerged land underlying the territorial waters off the east and west coasts of the state.
- Removed the prohibition against granting permits to drill a well in search of oil or gas within the territorial waters off the east and west coasts of the state.

- Removed the prohibition against permitting or constructing structures intended for the drilling for, or production of, oil, gas, or other petroleum products within the territorial waters off the east and west coasts of the state.