

1 A bill to be entitled
2 An act relating to the regulation of state lands and oil
3 and gas resources; amending s. 253.52, F.S.; providing for
4 the Board of Trustees of the Internal Improvement Trust
5 Fund to accept and award bids for oil and gas leases on
6 submerged lands underlying the territorial waters of the
7 state; providing requirements and procedures for
8 submitting, reviewing, and awarding such bids; providing
9 for a nonrefundable bid submittal fee; providing for
10 easements over sovereign submerged lands for the
11 construction, installation, and maintenance of structures
12 relating to the production of oil, gas, or other petroleum
13 products; providing a fee for such easements; requiring
14 certain notice; amending s. 253.571, F.S.; providing
15 requirements for proof of financial responsibility by a
16 lessee prior to the commencement of drilling on submerged
17 lands underlying the territorial waters of the state;
18 providing a limitation; creating s. 253.585, F.S.;
19 providing for the distribution of royalties, cash
20 considerations, annual rentals, or payments in lieu of
21 royalties collected for oil and gas leases on submerged
22 lands within the territorial waters of the state;
23 providing for rulemaking; amending s. 253.61, F.S.;
24 providing an exemption from land-leasing restrictions for
25 leases on submerged lands within the territorial waters of
26 the state; deleting a provision prohibiting leasing of
27 specified lands; amending s. 377.24, F.S.; providing an
28 exemption from permit restrictions relating to drilling

29 gas or oil wells for leases on submerged lands within the
 30 territorial waters of the state; deleting a provision
 31 prohibiting drilling in specified waters; amending s.
 32 377.242, F.S.; deleting a provision prohibiting the
 33 construction of specified structures; providing exemptions
 34 from restrictions relating to the permitting or
 35 construction of structures intended for the drilling for
 36 or production of oil, gas, or other petroleum products;
 37 amending s. 377.2425, F.S.; revising applicability
 38 provisions relating to surety for geophysical exploration,
 39 drilling, and production; exempting applicants for
 40 drilling or operating permits for operations planned in
 41 coastal waters; providing an effective date.

42

43 Be It Enacted by the Legislature of the State of Florida:

44

45 Section 1. Section 253.52, Florida Statutes, is amended to
 46 read:

47 253.52 Placing oil and gas leases on market by board.--

48 (1) Whenever in the opinion of the Board of Trustees of
 49 the Internal Improvement Trust Fund there shall be a demand for
 50 the purchase of oil and gas leases on any area, tract, or parcel
 51 of the land so owned, controlled, or managed, by any state
 52 board, department, or agency, then the board shall place such
 53 oil and gas lease or leases on the market in such blocks,
 54 tracts, or parcels as it may designate. The lease or leases
 55 shall only be made after notice by publication thereof has been
 56 made not less than once a week for 4 consecutive weeks in a

57 | newspaper of general circulation published in Leon County, and
58 | in a similar newspaper for a similar period of time published in
59 | the vicinity of the lands offered to be leased, the last
60 | publication in both newspapers to be not less than 5 days in
61 | advance of the sale date. Such notice shall be to the effect
62 | that a lease or leases will be offered for sale at such date and
63 | time as may be named in said notice and shall describe the land
64 | upon which such lease, or leases, will be offered. This notice
65 | may be combined with the notice required pursuant to s. 253.115.
66 | Before any lease of any block, tract, or parcel of land,
67 | submerged, or unsubmerged, within a radius of 3 miles of the
68 | boundaries of any incorporated city, or town, or within such
69 | radius of any bathing beach, or beaches, outside thereof, such
70 | board, department, or agency, shall through one or more of its
71 | members hold a public hearing, after notice thereof by
72 | publication once in a newspaper of general circulation published
73 | at least 1 week prior to said hearing in the vicinity of the
74 | land, or lands, offered to be leased, of the offer to lease the
75 | same, calling upon all interested persons to attend said hearing
76 | where they would be given the opportunity to be heard, all of
77 | which shall be considered by the board prior to the execution of
78 | any lease or leases to said land, and the board may withdraw
79 | said land, or any part thereof, from the market, and refuse to
80 | execute such lease or leases if after such hearing, or
81 | otherwise, it considers such execution contrary to the public
82 | welfare. Before advertising any land for lease the form of the
83 | lease or leases to be offered for sale, not inconsistent with
84 | law, or the provisions of this section, shall be prescribed by

85 the board and a copy, or copies, thereof, shall be available to
86 the general public at the office of the Board of Trustees of the
87 Internal Improvement Trust Fund and the advertisements of such
88 sale shall so state.

89 (2) (a) Notwithstanding subsection (1), the Board of
90 Trustees of the Internal Improvement Trust Fund shall accept a
91 nomination on or before September 1 of each year from a bidder
92 or bidders for the purchase, in such blocks, tracts, or parcels
93 as the bidder may designate, of oil and gas leases on any area,
94 tract, or parcel of submerged land underlying the territorial
95 waters of the state, as defined in the Submerged Lands Act, 43
96 U.S.C. ss. 1301-1315, so owned, controlled, or managed by any
97 state board, department, or agency.

98 (b) Within 14 days after receipt of a bid, the board shall
99 give notice of same by publication in the Florida Administrative
100 Weekly and in a newspaper of general circulation published in
101 the vicinity of the proposed lease or leases. The publication
102 may not include any reference to proprietary trade secrets or
103 confidential or economic business information provided by the
104 original bidder.

105 (c) The notice requirements under paragraph (b) shall
106 apply in lieu of the requirements under subsection (1) and s.
107 253.115 for a nomination for the purchase of an oil and gas
108 lease pursuant to this subsection.

109 (d) Other interested parties shall have 90 days after the
110 date of publication of the notice to submit a competing bid for
111 the same blocks, tracts, or parcels as were designated in the
112 original bid and published in the notice. The bid period shall

113 close on the 90th day.

114 (e) The board shall have no more than 30 days from the
115 date the bid period closes to review all bids and determine
116 whether or not each bid contains all of the information required
117 under subsection (4). Any bid determined to not contain all of
118 the information required under subsection (4) shall be returned
119 to the bidder and may not be further considered.

120 (f) Following a determination that a bid or bids contain
121 all of the information required under subsection (4), the board
122 shall select the highest and best of such bids within 30 days,
123 provided that if, in the reasonable judgment of the board, the
124 bids submitted do not represent the reasonable fair value of
125 such lease or leases, the execution of same is reasonably
126 determined to be contrary to the public welfare, or, if the
127 responsibility of the bidder offering the highest amount has not
128 reasonably been established to the board's satisfaction, the
129 board may in its discretion reject the bids. All information
130 included in all bids not selected by the board shall be returned
131 to the bidder, including all checks or other financial
132 assurances, except for the \$1 million nonrefundable bid
133 submittal fee.

134 (g) The board shall have no more than 90 days to negotiate
135 any outstanding matters, including, but not limited to, definite
136 rental payments or payments that may be made in lieu of royalty,
137 with the winning bidder and award the lease or leases.
138 Affirmative action by the board to approve any such lease shall
139 require the approval of the Governor and at least two other
140 members of the board.

141 (3) To the extent that any provision of the sealed bid
142 requirements pursuant to s. 253.53 and the competitive bidding
143 process pursuant to s. 253.54 may be in conflict with the
144 nomination process provided under subsection (2), subsection (2)
145 shall control the nomination for and the award of the purchase,
146 in such blocks, tracts, or parcels as may be designated, of an
147 oil and gas lease or leases on any area, tract, or parcel of
148 submerged land underlying the territorial waters of the state.

149 (4) All bids submitted to the board for lands identified
150 under subsection (2) shall include the following:

151 (a) A nonrefundable bid submittal fee of \$1 million in
152 addition to and separate from any cash consideration that may be
153 provided as part of the bid;

154 (b) Documentation stating that all equipment or structures
155 above the surface of the water and related to the development
156 and production of oil and gas within the territorial waters of
157 the state shall be situated no closer than 3 miles from the
158 coast as calculated from the line of mean high tide;

159 (c) A statement and map identifying the blocks, tracts, or
160 parcels, as designated for the oil and gas lease or leases, on
161 submerged land underlying the territorial waters of the state;

162 (d) A statement of a cash consideration; and

163 (e) A statement of a royalty, never less than one-eighth
164 in kind or in value; provided, however, that up-front payments
165 in lieu of royalties may be proposed and, if proposed, may
166 reduce the minimum one-eighth royalty.

167 (5) All bids shall be accompanied by a separate cashier's
168 check or certified check for the amount of the cash

CS/CS/CS/HB 1219

2009

169 consideration and application fee and shall be payable to the
170 state board, department, or agency which holds title to or
171 controls the land sought to be leased.

172 (6) For a bidder who obtains an oil and gas lease from a
173 bid pursuant to subsection (2) and fails to be issued a permit,
174 after a good faith effort to attain such a permit, for
175 geophysical operations, drilling, or exploring and extracting
176 through well holes or by other means pursuant to ss. 377.2408
177 and 377.242 within 24 months after receiving the lease, the
178 board shall refund the entire cash consideration with interest
179 paid pursuant to s. 55.03(1), using the per annum rate for the
180 year in which the bidder obtained the lease. The bidder may
181 extend this time period upon receiving a written request showing
182 good cause by the Department of Environmental Protection.

183 (7) If the board awards an oil and gas lease or leases
184 issued pursuant to subsection (2), the lessee shall be entitled
185 to obtain an easement or easements over sovereign submerged
186 lands for the construction, installation, and maintenance of any
187 pipeline or associated infrastructure that is an appurtenance to
188 the transportation of oil and gas from the leased submerged
189 lands to shore-based facilities. The fee for this easement shall
190 be based on a cost per linear foot basis and may not exceed \$5
191 per linear foot. Notwithstanding s. 253.115, within 14 days
192 after receipt of an application for an easement or easements
193 pursuant to this subsection, the board shall require the
194 applicant for such easement or easements to give notice of the
195 filing of such application or applications by publication, one

196 time only, in a newspaper of general circulation published in
 197 the vicinity of the proposed lease or leases.

198 Section 2. Section 253.571, Florida Statutes, is amended
 199 to read:

200 253.571 Proof of financial responsibility required of
 201 lessee prior to commencement of drilling.--

202 (1) The Board of Trustees of the Internal Improvement
 203 Trust Fund may require a surety or property bond, an irrevocable
 204 letter of credit, or other proof of financial responsibility
 205 from each lessee of public land or mineral interest prior to the
 206 time such lessee mines, drills, or extracts in any manner,
 207 petroleum, petroleum products, gas, sulphur, or any other
 208 mineral from such land. The surety bond or irrevocable letter of
 209 credit shall be from a surety company or bank authorized to do
 210 business in the state. The surety bond, irrevocable letter of
 211 credit, or other proof of financial responsibility shall serve
 212 as security and is to be forfeited to the board to pay for any
 213 damages caused by mining or drilling operations performed by the
 214 lessee. In the case of operations planned in the waters of the
 215 state or under other particular circumstances which, by their
 216 nature warrant greater security in view of possible damages, the
 217 board shall give special consideration to the extent of such
 218 possible damages and shall set the amount of an adequate and
 219 sufficient surety bond, irrevocable letter of credit, or other
 220 proof of financial responsibility accordingly. For the purposes
 221 of this section, damages shall include, but not be limited to,
 222 air, water, and ground pollution, destruction of wildlife or
 223 marine productivity and any other damage which impairs the

224 health and general welfare of the citizens of the state. The
225 board shall require a lessee to provide proof of financial
226 responsibility only once, irrespective of the number of
227 different leases the lessee may have.

228 (2) A surety or property bond, an irrevocable letter of
229 credit, or other proof of financial responsibility from each
230 lessee of public land or mineral interest in submerged lands
231 underlying the territorial waters of the state, as defined in
232 the Submerged Lands Act, 43 U.S.C. ss. 1301-1315, shall not
233 exceed the lesser amount of either:

234 (a) Five hundred million dollars; or

235 (b) A calculated cost estimate for potential damages
236 related to, but not limited to, air, water, and ground
237 pollution, destruction of wildlife or marine productivity, and
238 any other damage that impairs the health and general welfare of
239 the citizens of the state, as based on reasonably foreseeable
240 accidents or occurrences associated with the particular oil and
241 gas development or production activity within the immediate area
242 of the oil and gas lease.

243 (3) A surety or property bond, an irrevocable letter of
244 credit, or other proof of financial responsibility issued under
245 subsection (2) shall be the only proof of financial
246 responsibility a lessee must provide in lieu of any other proof
247 of financial responsibility that may be required by any agency
248 for any permit or authorization that must be obtained in
249 connection with the development and production of oil and gas,
250 including, but not limited to, oil and gas transportation
251 infrastructure, such as pipelines, appurtenant to the leased

252 submerged lands.

253 Section 3. Section 253.585, Florida Statutes, is created to
 254 read:

255 253.585 Distribution of royalties, cash considerations,
 256 annual rentals, or payments in lieu of royalties collected for
 257 oil and gas leases on submerged lands within the territorial
 258 waters of the state.--

259 (1) Royalties, cash considerations, annual rentals, or
 260 payments in lieu of royalties collected for oil and gas leases
 261 on submerged lands within the territorial waters of the state
 262 shall be appropriated for the following purposes:

263 (a) To fund a bond initiative to provide up to \$300
 264 million per year for the Florida Forever land acquisition
 265 program, including up to an additional \$15 million for
 266 reasonable management costs for the administration of such
 267 lands, to the extent the Board of Trustees of the Internal
 268 Improvement Trust Fund determines such management costs are
 269 necessary.

270 (b) To provide up to \$20 million per year for local
 271 governments to support beach restoration and nourishment
 272 projects.

273 (c) To provide up to \$20 million per year to be
 274 distributed to coastal local governments within the county or
 275 counties within which the lease or leases are issued.

276 (2) The Division of State Lands in the Department of
 277 Environmental Protection, as staff to the Board of Trustees of
 278 the Internal Improvement Trust Fund, shall adopt rules as
 279 necessary to administer this section.

CS/CS/CS/HB 1219

2009

280 Section 4. Paragraphs (b), (c), and (d) of subsection (1)
281 of section 253.61, Florida Statutes, are amended to read:

282 253.61 Lands not subject to lease.--

283 (1) Regardless of anything to the contrary contained in
284 this law in any previous section or part thereof, no board or
285 agency mentioned therein or the state shall have the power or
286 authority to sell, execute, or enter into any lease of the type
287 covered by this law relating to any of the following lands,
288 submerged or unsubmerged, except under the circumstances and
289 conditions as hereinafter set out in this section, to wit:

290 (b) No lease of the type covered by this law shall be
291 granted, sold or executed covering any such lands in the tidal
292 waters of the state, abutting on or immediately adjacent to the
293 corporate limits of a municipality or within 3 miles of such
294 corporate limits extending from the line of mean high tide into
295 such waters, unless the governing authority of the municipality
296 shall have first duly consented to the granting or sale of such
297 lease by resolution. This paragraph does not apply to leases on
298 submerged lands underlying the territorial waters of the state,
299 as defined in the Submerged Lands Act, 43 U.S.C. ss. 1301-1315,
300 where any structure or equipment above the surface of the water
301 is more than 3 miles from such corporate limits.

302 (c) No lease of the type covered by this law shall be
303 granted, sold or executed covering such lands on any improved
304 beach, located outside of an incorporated town or municipality,
305 or covering such lands in the tidal waters of the state abutting
306 on or immediately adjacent to any improved beach, or within 3
307 miles of an improved beach extending from the line of mean high

CS/CS/CS/HB 1219

2009

308 | tide into such tidal waters, unless the county commissioners of
309 | the county in which such beach is located shall have first duly
310 | consented to the granting or sale of such lease by resolution.
311 | This paragraph does not apply to leases on submerged lands
312 | underlying the territorial waters of the state, as defined in
313 | the Submerged Lands Act, 43 U.S.C. ss. 1301-1315, where any
314 | structure or equipment above the surface of the water is more
315 | than 3 miles from such improved beach.

316 | ~~(d) Without exception, after July 1, 1989, no lease of the~~
317 | ~~type covered by this law shall be granted, sold, or executed~~
318 | ~~south of 26° north latitude off Florida's west coast and south~~
319 | ~~of 27° north latitude off Florida's east coast, within the~~
320 | ~~boundaries of Florida's territorial seas as defined in 43 U.S.C.~~
321 | ~~1301. After July 31, 1990, no oil or natural gas lease shall be~~
322 | ~~granted, sold, or executed covering lands located north of~~
323 | ~~26°00'00" north latitude off Florida's west coast to the western~~
324 | ~~boundary of the state bordering Alabama as set forth in s. 1,~~
325 | ~~Art. II of the State Constitution, or located north of 27°00'00"~~
326 | ~~north latitude off Florida's east coast to the northern boundary~~
327 | ~~of the state bordering Georgia as set forth in s. 1, Art. II of~~
328 | ~~the State Constitution, within the boundaries of Florida's~~
329 | ~~territorial seas as defined in 43 U.S.C. 1301.~~

330 | Section 5. Subsections (6), (7), and (9) of section
331 | 377.24, Florida Statutes, are amended to read:

332 | 377.24 Notice of intention to drill well; permits;
333 | abandoned wells and dry holes.--

334 | (6) No permit to drill a gas or oil well shall be granted
335 | at a location in the tidal waters of the state, abutting or

336 immediately adjacent to the corporate limits of a municipality
337 or within 3 miles of such corporate limits extending from the
338 line of mean high tide into such waters, unless the governing
339 authority of the municipality shall have first duly approved the
340 application for such permit by resolution. This subsection does
341 not apply to leases on submerged lands underlying the
342 territorial waters of the state, as defined in the Submerged
343 Lands Act, 43 U.S.C. ss. 1301-1315, where any structure or
344 equipment above the surface of the water is more than 3 miles
345 from such corporate limits.

346 (7) No permit to drill a gas or oil well shall be granted
347 on any improved beach, located outside of an incorporated town
348 or municipality, or at a location in the tidal waters of the
349 state abutting or immediately adjacent to an improved beach, or
350 within 3 miles of an improved beach extending from the line of
351 mean high tide into such tidal waters, unless the county
352 commissioners of the county in which such beach is located shall
353 have first duly approved the application for such permit by
354 resolution. This subsection does not apply to leases on
355 submerged lands underlying the territorial waters of the state,
356 as defined in the Submerged Lands Act, 43 U.S.C. ss. 1301-1315,
357 where any structure or equipment above the surface of the water
358 is more than 3 miles from such improved beach.

359 ~~(9) Without exception, after July 1, 1989, no permit to~~
360 ~~drill a well in search of oil or gas shall be granted south of~~
361 ~~26°00'00" north latitude off Florida's west coast and south of~~
362 ~~27°00'00" north latitude off Florida's east coast, within the~~
363 ~~boundaries of Florida's territorial seas as defined in 43 U.S.C.~~

364 ~~1301. After July 31, 1990, no permit to drill a well in search~~
 365 ~~of oil or gas shall be granted north of 26°00'00" north latitude~~
 366 ~~off Florida's west coast to the western boundary of the state~~
 367 ~~bordering Alabama as set forth in s. 1, Art. II of the State~~
 368 ~~Constitution, or located north of 27°00'00" north latitude off~~
 369 ~~Florida's east coast to the northern boundary of the state~~
 370 ~~bordering Georgia as set forth in s. 1, Art. II of the State~~
 371 ~~Constitution, within the boundaries of Florida's territorial~~
 372 ~~seas as defined in 43 U.S.C. 1301.~~

373 Section 6. Section 377.242, Florida Statutes, is amended
 374 to read:

375 377.242 Permits for drilling or exploring and extracting
 376 through well holes or by other means.--The department is vested
 377 with the power and authority:

378 (1)(a) To issue permits for the drilling for, exploring
 379 for, or production of oil, gas, or other petroleum products
 380 which are to be extracted from below the surface of the land,
 381 including submerged land, only through the well hole drilled for
 382 oil, gas, and other petroleum products.

383 1. No structure intended for the drilling for, or
 384 production of, oil, gas, or other petroleum products may be
 385 permitted or constructed on any submerged land within any bay or
 386 estuary.

387 2. No structure intended for the drilling for, or
 388 production of, oil, gas, or other petroleum products may be
 389 permitted or constructed within 1 mile seaward of the coastline
 390 of the state.

391 3. No structure intended for the drilling for, or
392 production of, oil, gas, or other petroleum products may be
393 permitted or constructed within 1 mile of the seaward boundary
394 of any state, local, or federal park or aquatic or wildlife
395 preserve or on the surface of a freshwater lake, river, or
396 stream.

397 4. No structure intended for the drilling for, or
398 production of, oil, gas, or other petroleum products may be
399 permitted or constructed within 1 mile inland from the shoreline
400 of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary
401 or within 1 mile of any freshwater lake, river, or stream unless
402 the department is satisfied that the natural resources of such
403 bodies of water and shore areas of the state will be adequately
404 protected in the event of accident or blowout.

405 ~~5. Without exception, after July 1, 1989, no structure~~
406 ~~intended for the drilling for, or production of, oil, gas, or~~
407 ~~other petroleum products may be permitted or constructed south~~
408 ~~of 26°00'00" north latitude off Florida's west coast and south~~
409 ~~of 27°00'00" north latitude off Florida's east coast, within the~~
410 ~~boundaries of Florida's territorial seas as defined in 43 U.S.C.~~
411 ~~s. 1301. After July 31, 1990, no structure intended for the~~
412 ~~drilling for, or production of, oil, gas, or other petroleum~~
413 ~~products may be permitted or constructed north of 26°00'00"~~
414 ~~north latitude off Florida's west coast to the western boundary~~
415 ~~of the state bordering Alabama as set forth in s. 1, Art. II of~~
416 ~~the State Constitution, or located north of 27°00'00" north~~
417 ~~latitude off Florida's east coast to the northern boundary of~~
418 ~~the state bordering Georgia as set forth in s. 1, Art. II of the~~

419 ~~State Constitution, within the boundaries of Florida's~~
420 ~~territorial seas as defined in 43 U.S.C. s. 1301.~~

421 (b) Subparagraphs (a)1. and 4. do not apply to permitting
422 or construction of structures intended for the drilling for, or
423 production of, oil, gas, or other petroleum products pursuant to
424 an oil, gas, or mineral lease of such lands by the state under
425 which lease any valid drilling permits are in effect on the
426 effective date of this act. In the event that such permits
427 contain conditions or stipulations, such conditions and
428 stipulations shall govern and supersede subparagraphs (a)1. and
429 4.

430 (c) The prohibitions of subparagraphs (a)1.-4. ~~in this~~
431 ~~subsection~~ do not include "infield gathering lines," or other
432 pipelines for the purpose of transporting offshore production on
433 shore, provided no other placement is reasonably available and
434 all other required permits have been obtained.

435 (d) Subparagraphs (a)1.-3. do not apply to the permitting
436 or construction of offshore structures intended for the
437 exploration or production of oil, gas, or other petroleum
438 products where any structure or equipment above the surface of
439 the water is more than 3 miles seaward from the line of mean
440 high tide.

441 (2) To issue permits to explore for and extract minerals
442 which are subject to extraction from the land by means other
443 than through a well hole.

444 (3) To issue permits to construct wells for the injection
445 and recovery of any natural gas for temporary storage in
446 subsurface reservoirs.

447
 448 Each permit shall contain an agreement by the permitholder that
 449 the permitholder will not prevent inspection by division
 450 personnel at any time. ~~The provisions of this section~~
 451 ~~prohibiting permits for drilling or exploring for oil in coastal~~
 452 ~~waters do not apply to any leases entered into before June 7,~~
 453 ~~1991.~~

454 Section 7. Subsection (1) of section 377.2425, Florida
 455 Statutes, is amended to read:

456 377.2425 Manner of providing security for geophysical
 457 exploration, drilling, and production.--

458 (1) Prior to granting a permit to conduct geophysical
 459 operations; drilling of exploratory, injection, or production
 460 wells; producing oil and gas from a wellhead; or transporting
 461 oil and gas through a field-gathering system, the department
 462 shall require the applicant or operator to provide surety that
 463 these operations will be conducted in a safe and environmentally
 464 compatible manner.

465 (a) The applicant for a drilling, production, or injection
 466 well permit or a geophysical permit may provide the following
 467 types of surety to the department for this purpose:

468 1. A deposit of cash or other securities made payable to
 469 the Minerals Trust Fund. Such cash or securities so deposited
 470 shall be held at interest by the Chief Financial Officer to
 471 satisfy safety and environmental performance provisions of this
 472 chapter. The interest shall be credited to the Minerals Trust
 473 Fund. Such cash or other securities shall be released by the
 474 Chief Financial Officer upon request of the applicant and

475 certification by the department that all safety and
476 environmental performance provisions established by the
477 department for permitted activities have been fulfilled.

478 2. A bond of a surety company authorized to do business in
479 the state in an amount as provided by rule.

480 3. A surety in the form of an irrevocable letter of credit
481 in an amount as provided by rule guaranteed by an acceptable
482 financial institution.

483 (b) An applicant for a drilling, production, or injection
484 well permit, or a permittee who intends to continue
485 participating in long-term production activities of such wells,
486 has the option to provide surety to the department by paying an
487 annual fee to the Minerals Trust Fund. For an applicant or
488 permittee choosing this option the following shall apply:

489 1. For the first year, or part of a year, of a drilling,
490 production, or injection well permit, or change of operator, the
491 fee is \$4,000 per permitted well.

492 2. For each subsequent year, or part of a year, the fee is
493 \$1,500 per permitted well.

494 3. The maximum fee that an applicant or permittee may be
495 required to pay into the trust fund is \$30,000 per calendar
496 year, regardless of the number of permits applied for or in
497 effect.

498 4. The fees set forth in subparagraphs 1., 2., and 3.
499 shall be reviewed by the department on a biennial basis and
500 adjusted for the cost of inflation. The department shall
501 establish by rule a suitable index for implementing such fee
502 revisions.

CS/CS/CS/HB 1219

2009

503 (c) This subsection does not apply to an applicant for a
504 drilling or operating permit for operations planned in coastal
505 waters ~~that by their nature warrant greater surety shall provide~~
506 ~~surety only in accordance with paragraph (a), or similar proof~~
507 ~~of financial responsibility other than as provided in paragraph~~
508 ~~(b). For all such applications, including applications pending~~
509 ~~at the effective date of this act and notwithstanding the~~
510 ~~provisions of paragraph (b), the Governor and Cabinet in their~~
511 ~~capacity as the Administration Commission, at the recommendation~~
512 ~~of the Department of Environmental Protection, shall set a~~
513 ~~reasonable amount of surety required under this subsection. The~~
514 ~~surety amount shall be based on the projected cleanup costs and~~
515 ~~natural resources damages resulting from a maximum oil spill and~~
516 ~~adverse hydrographic and atmospheric conditions that would tend~~
517 ~~to transport the oil into environmentally sensitive areas, as~~
518 ~~determined by the Department of Environmental Protection.~~

519 Section 8. This act shall take effect July 1, 2009.