HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 563 Energy Security
SPONSOR(S): McKeel
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1726

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	General Government Policy Council	12 Y, 4 N	Blalock	Hamby
2)	Rules & Calendar Council			
3)	Policy Council			
4)				
5)				

SUMMARY ANALYSIS

On December 20, 2006, the Gulf of Mexico Energy Security Act of 2006 (GOMESA) was signed into law by President George W. Bush. This law prohibits leasing of federal submerged lands for the purpose of producing oil and natural gas in the Gulf of Mexico within 125 miles of the Florida coastline in the Eastern Planning Area and 100 miles from the Florida coastline in the Lease Area 181 of the Central Planning Area. This prohibition is set to expire on June 30, 2022, but it may be changed by federal legislation at any time. GOMESA also includes a revenue sharing provision which allows “producing states” to share 37.5 percent of revenues from Gulf of Mexico leases. The term “producing states” only includes Texas, Louisiana, Mississippi, and Alabama.

This memorial urges Congress to support the expiration and removal of the moratorium prohibiting exploration and production of domestic supplies of oil and natural gas in federal waters surrounding Florida, and to include Florida in revenue sharing resulting from the production of oil and natural gas in federal waters surrounding Florida.

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

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 Submerged Lands Act of 1953 was enacted in response to litigation that effectively transferred ownership of the first 3 miles of a state's coastal submerged lands to the federal government. In the case *United States v. California,* 332 U.S. 19 (1947), the United States successfully argued that the three nautical miles seaward of California belonged to the federal government, primarily finding that the federal government's responsibility for the defense of the marginal seas and the conduction of foreign relations outweighed the interests of the individual states. In response, Congress adopted the Submerged Lands Act in 1953, granting title to the natural resources located within three miles of their coastline. The Act also provided a procedure for a state to claim a greater boundary based on prior legal claims. Following a series of court cases, the three nautical miles were enlarged to three marine leagues, or 10.35 statute miles, for Texas' and Florida's Gulf coast. Title II of the Act addresses the rights and claims by the States to the lands and resources beneath navigable waters within their historic boundaries and provides that the right of development belongs to the States. Title III of the Act preserves the control of the seabed and resources beyond State boundaries to the federal government.

In 1953, Congress also enacted the Outer Continental Shelf Lands Act, which governs mineral activities in federal areas within the Outer Continental Shelf (OCS). The 1953 statute defines the OCS as all submerged lands lying seaward of State coastal waters (10.35 miles for Florida's Gulf Coast) which are under U.S. jurisdiction. The statute authorized the Secretary of Interior to promulgate regulations to lease the OCS in an effort to prevent waste and conserve natural resources and to grant leases to the highest responsible qualified bidder as determined by competitive bidding procedures.

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 OCS is a significant source of oil and gas for the Nation's energy supply. The approximately 43 million leased OCS acres generally account for about 15 percent of America's domestic natural gas production and about 27 percent of America's domestic oil production. The offshore areas of the United States are estimated to contain significant quantities of resources in yet-to-be-discovered fields. The

Mineral Management Service (MMS) estimates of oil and gas resources in undiscovered fields on the OCS (2006, mean estimates) total 86 billion barrels of oil and 420 trillion cubic feet of gas. These volumes represent about 60 percent of the oil and 40 percent of the natural gas resources estimated to be contained in remaining undiscovered fields in the United States.[1]

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 21.51 trillion cubic feet of natural gas and 3.88 billion barrels of oil are in the Eastern Planning Area.[3]

Section 8(g) of the Outer Continental Shelf Lands Act (OCSLA) Amendments of 1978 provided that the States were to receive a "fair and equitable" division of revenues generated from the leasing of lands within 3 miles of the seaward boundary of a coastal State containing one or more oil and gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of the State. The States and the Federal Government, however, could not reach agreement concerning the meaning of the term "fair and equitable." Revenues generated within the 3-mile boundary were placed into an escrow fund beginning August 1979. Revenues from the Beaufort Sea in Alaska were placed into a second escrow fund under section 7, beginning December 1979.

Congress resolved the dispute over the meaning of "fair and equitable" in the OCSLA Amendments of 1985, Public Law 99-272. The law provides for the following distribution of section 8(g) revenues to the States:

- Disbursement of escrow funds during Fiscal year (FY) 1986-87;
- A series of annual settlement payments disbursed to the States over a 15-year period from FY 1987 to FY 2001; and
- Recurring annual disbursements of 27 percent of royalty, rent, and bonus revenues received within each affected state's 8(g) zone.

The 1985 amendments to the OCSLA determined that the figure of 27 percent was appropriate to compensate States for any damage to, or drainage of, State jurisdiction natural gas and oil resources that operate on adjacent Federal leases. Between 1986 and 2003, coastal States received over $3.1 billion in Section 8(g) revenue.

Federal Offshore Revenue Received by States
Under Section 8(g) of the OCSLA, FY 1986-2003

State	Revenue
Alabama	$ 198,963,900
Alaska	523,816,155
California	678,204,136
Florida	2,416,063
Louisiana	969,267,130
Mississippi	21,449,651
Texas	751,596,694
Total	**$ 3,145,713,709**

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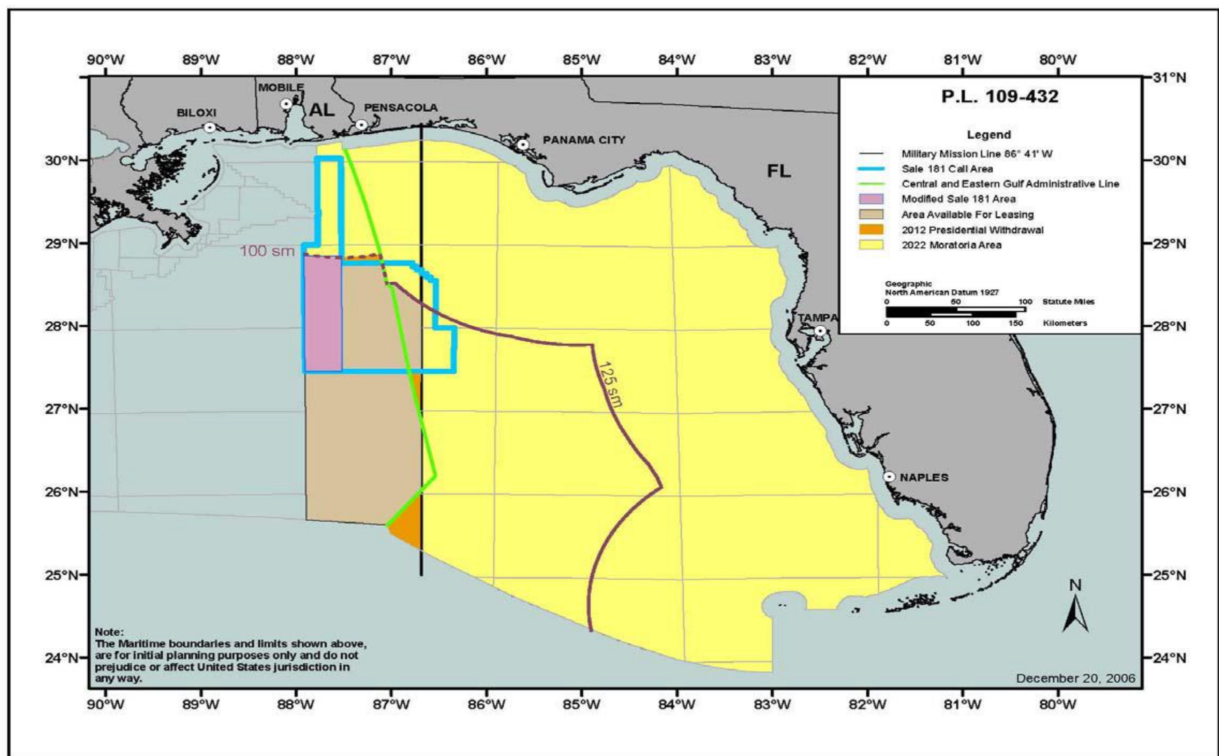
[1] http://www.mms.gov/offshore/.
[2] See Figure 1.
[3] Minerals Management Service, http://www.mms.gov/revaldiv/PDFs/NA2006BrochurePlanningAreaInsert.pdf.

In FY 2008, MMS disbursed $103.6 million in 8(g) oil and gas revenues to the following seven coastal states:

- Alabama: $15,000,000
- Alaska: $17,800,000
- California: $11,000,000
- Louisiana: $45,800,000
- Texas: $13,000,000
- Mississippi: $ 564,068
- Florida: $ 83

The Gulf of Mexico Energy Security Act of 2006 (GOMESA) 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 previously off-limit areas of the Western and Central Gulf of Mexico to offshore drilling. However, 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.

Figure 1.



In addition, GOMESA included a revenue sharing provision for Gulf coast "producing states", which are defined in law as Texas, Louisiana, Mississippi, and Alabama. The revenue sharing provisions allocated a share of oil and natural gas revenues to Alabama, Louisiana, Mississippi and Texas for

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[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.

directly supporting offshore activities and onshore infrastructure. From 2007 through 2016, the four Gulf oil and gas producing states will share 37.5 percent of revenues from new leases in the 0.5 million acres in the Eastern Gulf and the 5.8 million acres in the Central Gulf. After 2016, they will share 37.5 percent of revenues from all Gulf leases issued after December 2006. GOMESA funds are to be used for:

- Coastal conservation,
- Restoration, and
- Hurricane protection.

The amount of the 37.5 percent that each state receives is calculated based on the amount of oil or gas that a specific tract produces and the distance of each producing tract from the coastline of each state. The closer a particular tract is to a state's coastline, the larger the percentage is that that state collects from the revenues produced from the tract. The Department of the Interior has developed a formula by rule that calculates the exact amount of the revenues from a particular tract that each state receives annually.

Gulf of Mexico Energy Security Act of 2006
Fiscal Year 2008 Allocations

Producing State	% Allocation	Total Allocation	Amount Direct to States	Amount Direct to CPSs[6]
Alabama	30.60%	$ 7,723,845.31	$ 6,179,076.25	$ 1,544,769.06
Louisiana	31.44%	$ 7,934,151.41	$ 6,347,321.13	$ 1,586,830.28
Mississippi	27.27%	$ 6,882,794.75	$ 5,506,235.80	$ 1,376,558.95
Texas	10.69%	$ 2,699,249.57	$ 2,159,399.65	$ 539,849.92
Total All 4 States	**100.00%**	**$ 25,240,041.04**	**$ 20,192,032.83**	**$ 5,048,008.21**

Effect of Proposed Memorial

This memorial urges the Congress of the United States to support the expiration and removal of the moratoria prohibiting exploration and production of domestic supplies of oil and natural gas in federal waters surrounding Florida and to include Florida in revenue sharing resulting from the production of oil and natural gas in federal waters surrounding Florida. The memorial further directs that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

B. SECTION DIRECTORY:

None.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

[6] CPS stands for "coastal political subdivisions", i.e. local governments.

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

None.