

Draft Oil and Gas Bill Section-by-Section Summary

[Page 5] Section 1. Creates s. 163.3210 – Activities or structures related to oil and gas drilling, exploration, production, or transportation by pipeline

Section 1 provides that a governing body cannot by ordinance, resolution, or other means, prohibit the issuance of a development permit or development order, as those terms are defined in chapter 163, for activities or structures primarily for, or appurtenant to, drilling, exploration, production, or transportation by pipeline of oil, gas, or other petroleum products from an oil and gas lease covering sovereignty submerged lands within the seaward boundary of the state, or regulate any such activities in any manner inconsistent with, or more stringent than, state law or regulations.

[Page 6] Section 2. Creates s. 253.471 – Demarcating Florida's territorial coastal waters in the Gulf of Mexico for leasing

Section 2 requires the Board of Trustees of the Internal Improvement Trust Fund (Board) to extend the federal Universal Transverse Mercator grid system to all of Florida's territorial waters in the Gulf of Mexico seaward of the mean high water line. The Board must also create protraction diagrams that map and number individual lease blocks.

[Page 6] Section 3. Amending s. 253.52 - Placing oil and gas leases on market by board

Section 3 provides that s. 253.52, F.S., does not apply to placing oil and gas leases on the market for submerged lands underlying the territorial coastal waters of the state.

[Page 8] Section 4. Creating s. 253.521 - Placing oil and gas leases on the market for submerged lands underlying the territorial coastal waters of the state

Section 4 provides that twice a year, the Board of Trustees of the Internal Improvement Trust Fund (Board) is required to hold a lease sale.

Three months prior to the lease sale, the Board must provide an initial notice of the lease sale that includes the date, time, and location of the lease sale, and identifies the proposed lease block or blocks that the Board is proposing to offer for lease. The Board may include in the notice any lease block or blocks that have been nominated to the Board within the previous 36 months. Prior to the Board including any of the lease blocks in the initial notice, the Board must consult with the Secretary of Defense. If the Secretary objects to the inclusion of any lease block based on potential conflicts to current or future military activities in the area, the Board must remove the lease block from consideration for the lease sale. If the Secretary does not object, but requests special lease stipulations to be included in a lease to eliminate or mitigate any potential conflicts with current or future military activities, the Board must include in the lease the special stipulations requested by the Secretary.

Two months prior to the lease sale, the Board must hold a public hearing on the proposed lease blocks listed in the notice. The Board will take all comments and information provided at the public hearing into consideration when determining the lease block or blocks to be included in the lease sale and in determining the terms of the lease, including any special lease stipulations. The special lease stipulations may include, but are not limited to:

- Requiring the lessee to perform biological and environmental assessments;
- Requiring the lessee to perform seismic surveys for the purpose of identifying and mapping sand sources within the lease area;
- Requiring the lessee to perform an archeological survey if historic or prehistoric resources are identified; and
- Requiring special conditions to mitigate conflicts with military activities identified by the Secretary of Defense as described above.

Based on the information gathered at the public hearing and after required consultation with the military, the Board must make a final determination of the lease block or blocks to include in the lease sale. One month prior to the date of the lease sale, as stated in the initial notice, the Board is required to give a final public notice of the lease sale, which includes the final list of lease block or blocks as determined by the Board to be offered at the lease sale. On the date specified in the notice, the Board will consider at a public meeting all bids submitted, and the Board will award the oil and gas lease or leases to the highest and best bidder.

[Page 12] Section 5. Creating s. 253.522 - Nominating submerged lands underlying the territorial coastal waters of the state for oil and gas lease sales

Section 5 provides that at any time, the Board must accept nominations of individual lease blocks from any person or entity. The Board must take these nominations into consideration when determining which lease block or blocks to include in the initial notice of the lease sale. Each nomination must include:

- The name and address of the applicant or nominee;
- A map that numerically identifies the lease block;
- Any seismic data within the lease block area the applicant or nominee possesses, including any interpreted two-dimensional, three-dimensional, or four-dimensional seismic lines and geological cross-sections;
- Any environmental assessments related to oil and gas development activities in the nominated area that the applicant or nominee possesses;
- Information on the known location of sand sources and any seismic data that identifies offshore sand sources that the applicant or nominee possesses;
- Any analysis the nominee possesses of the impacts of oil and gas development on other competing uses;
- Known military activities that occur near the lease block being nominated;
- Any known geologic data that provides information on the probability of the existence of oil and gas within the lease block;
- Nomination fee or an amount determined by the Board to cover the costs associated with reviewing the nomination.

[Page 13] Section 6. Creates Subsection (2) of s. 253.53 - Sealed bids required

Section 6 provides that all submerged lands underlying the territorial coastal waters of the state leased for oil and gas development must be leased upon sealed bids pursuant to a new subsection created in the bill. The Board must determine in advance a definite rental payment amount and the Board may, in its discretion, incorporate within the terms of any lease provisions for pooling or unitizing the leased premises. The Board may include shut-in provisions for payments that may be made in lieu of royalty on wells which have been completed and are capable of producing oil or gas in paying quantities, but are shut in pending development of a satisfactory market outlet, provided this shut-in period pending development of a satisfactory market outlet shall not exceed 36 months. In addition to such fixed charges for said lease, all bids must include:

- A bid submission fee, in an amount not less than \$1 million; and
- A statement identifying the bidder's identity, including any person or business entity holding more than a 5% interest in the business entity submitting the bid.

In addition to the fixed charges required above, for any oil and gas lease, the Board must also include either a fixed royalty amount, not to be less than 1/8 in kind, or in value, or a fixed amount for the cash consideration. Where the cash consideration is a fixed term of the lease, the bidder must submit the amount of cash consideration and a royalty amount above the minimum amount of 1/8 in kind, or in value. Where the royalty amount is a fixed term of the lease, the bidder must submit an amount for the cash consideration in addition to the minimum bid submission fee of \$1 million.

[Page 17] Section 7. Amending s. 253.54 – Competitive bidding

Section 7 provides that the Board shall select the highest and best bid unless the Board determines that the bids submitted do not represent the reasonable fair market value of the lease or leases, the selection of any bid is contrary to the public interest, or financial responsibility has not been established to the Board's satisfaction. When determining the highest and best bid, the Board shall take into consideration:

- The amount of cash consideration, if not fixed in the terms of the lease; and
- The amount of royalty payment, if not fixed in the terms of the lease sale.

The sole remedy for substantially affected persons to challenge the selection of the highest and best bid for oil and gas leases for submerged lands underlying the territorial coastal waters of the state is in accordance with the bid protest procedures set forth in subsection 120.57(3), F.S.

If the board awards an oil and gas lease for submerged lands underlying the territorial coastal waters of the state, the lessee shall be entitled to obtain an easement over state lands for the construction, installation, operation and maintenance of any pipeline or associated infrastructure appurtenant to the production or transportation of oil or gas from the lease area to shore-based facilities.

[Page 19] Section 8. Amending s. 253.55 – Limitations on term of lease

Section 8 provides that the terms of all oil and gas leases shall also include:

- A primary term of a minimum of 5 years and not to exceed 10 years from the date of the lease;
- A provision that cessation of drilling and production operations can occur for longer than the 30 day period in current law, where the cause of the cessation is the direct result of a hurricane or military activities;
- A provisions that no drilling structures extending above the surface of the water are allowed within 3 miles seaward of the mean high water line;
- A provision that no drilling structures extending above the surface of the water within 6 geographic miles seaward of the mean high water line will be allowed within the lease area for a period of 6 months, unless the Board grants an extension not to exceed one year. The Board may extend the length of time beyond one year only in response to drilling disruptions caused directly by hurricanes or military activities. Any lessee will be subject to civil penalties for violating this provision;
- A provision that no production platforms or other production structures are allowed above the surface of the water within 6 miles seaward of the mean high water line;
- A provision that prohibits discharges of drilling fluids, drill cuttings, and produced water into the waters of the state (produced water may be injected underground or encapsulated into the well bore).

[Page 21] Section 9. Amending s. 253.571 – Proof of financial responsibility required of lessee prior to commencement of drilling

Section 9 provides that:

- For each oil and gas lease for submerged lands underlying the territorial coastal waters of the state, the Board shall require a surety or performance bond or an irrevocable letter of credit from each lessee prior to the lessee performing any mining, drilling, development, production, transportation, or extraction activities in any manner of oil and gas.
- The security is to be paid to the Board to pay for damages caused by mining, drilling, exploration, development, production, transportation, dismantlement/decommissioning, and all activities appurtenant to these functions. The board must give special consideration to the extent of such possible damages and must set the amount of an adequate and sufficient surety bond, irrevocable letter of credit, or other proof of financial responsibility accordingly. Damages include, but are not limited to, air, water, and ground pollution, destruction of wildlife or marine productivity, loss of revenues from businesses resulting from a spill, loss of revenues by local governments as a result of a spill, and any other damage which impairs the health and general welfare of the citizens of the state.
- A surety or performance bond or irrevocable letter of credit required from the lessee of a submerged land lease for developing oil and gas shall be for an amount not less than \$500 million.

[Page 23] Section 10. Amending s. 253.61 - Lands not subject to lease

Current law restricts granting leases covering lands that are within three miles from the limits of a municipality or an improved beach located outside the limits of a municipality unless the municipality or county in which the improved beach is located approves the lease. Section 10 provides that these limitations do not apply to leases where structures or equipment above the surface of the water is more than 3 miles from the limits of a municipality or an improved beach.

Section 10 also, repeals the limitation from leasing within the state's territorial seas.

[Page 26] Section 11. Amending s. 258.396 – Boca Ciega Bay Aquatic Preserve

Section 11 provides that nothing in this section prohibits the state from leasing the oil and gas rights beneath the preserve and permitting drilling from outside the preserve to explore for and produce oil and gas from beneath the preserve if approved by the Board.

[Page 25] Section 12. Amending s. 258.42 – Maintenance of preserves

Section 12 clarifies that the state can lease the oil and gas rights and permit drilling from outside an aquatic preserves to produce oil and gas from beneath a preserve if approved by the Board.

[Page 27] Section 13. Amending s. 377.24 - Notice of intention to drill well; exploration plans; production plans; permits; abandoned wells and dry holes

Exploration plan

Section 13 requires that before a permit to drill an exploratory well in search of oil and gas is granted, the person desiring to drill the well must submit to the DEP for approval an exploration plan, which must include:

- Location of the exploration activity;
- Type of drilling technology to be used to conduct proposed drilling activities;
- Description of any onshore support facilities;
- Timeframe and schedule of the exploration activity;
- Description of the type of drilling fluids to be used to drill proposed exploration wells and how these fluids and other wastes will be processed and disposed of in accordance with state and federal law;
- Oil spill response plan;
- Environmental assessment that describes whether proposed exploration activities affect:
 - Air and water quality;
 - Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, and plant life;
 - State and federally listed endangered or threatened species and their habitat;
 - Sensitive biological resources or habitats such as refuges, preserves, management areas, coral reefs, sea grass beds, extensive hard-bottom/live-bottom areas, critical fishery spawning habitat, aquacultures areas, artificial reef areas, and mangrove estuaries;

- Archeological resources;
 - Any areas that contain significant quantities of sand for beach renourishment; and
 - Coastal and marine uses such as military activities, shipping, or commercial fishing.
- A description of the measures taken, or to be taken, to satisfy any required special lease stipulations, and verification that that all exploratory activities, including activities related to transportation and onshore support facilities associated with the exploratory activities, proposed in the plan, comply with all special stipulations included in the lease agreement;
 - Proof of filing or status of all required permits;
 - Proof of financial responsibility;
 - Name, address, and telephone number of the person or entity with whom the department can communicate with about the exploration plan;
 - Projected emissions of National Ambient Air Quality Standards pollutants that will be generated by the proposed exploratory drilling activities; and
 - Any other information required by the DEP.

The DEP is prohibited from granting any permit or authorizing in any manner any activities for the purpose of oil and gas exploration pursuant to an oil and gas lease within the territorial coastal waters of the state until the exploration plan has been approved.

Production plan

Section 13 also requires that before any development and production activities can be conducted, or any permit authorizing such activity can be granted, the applicant must submit to the DEP for approval a production plan that must include:

- Location of all production activities;
- Type of development drilling unit and production facilities to be used to conduct proposed development and production activities;
- Description of how oil and gas will be processed and transported;
- Timeframe and schedule of the development and production activities;
- A description of how development and production waste and produced water will be processed and disposed of in accordance with requisite state and federal laws;
- Proof of filing and status of all required permits;
- Proof of financial responsibility;
- Environmental assessment that describes whether proposed development and production activities affect:
 - Air and water quality;
 - Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, and plant life;
 - State and federally listed endangered or threatened species and their habitat;
 - Sensitive biological resources or habitats such as refuges, preserves, management areas, coral reefs, sea grass beds, extensive hard-bottom/live-bottom areas, critical fishery spawning habitat, aquacultures areas, artificial reef areas, and mangrove estuaries;
 - Archeological resources;
 - Any areas that contain significant quantities of sand for beach renourishment; and

- Coastal and marine uses such as military activities, shipping, or commercial fishing.
- Description of any onshore support facilities;
- A description of the measures taken, or to be taken, to satisfy any required special lease stipulations, and verification that all proposed development and production facilities and activities, including transportation and onshore support facilities, comply with all special stipulations included in the lease agreement;
- Oil spill response plan.
- Name, address, and telephone number of the person or entity with whom the department can communicate with about the production plan;
- Projected emissions of NAAQS pollutants that will be generated by the proposed development and production activities;
- Description of how any wells, platforms, pipelines, and other facilities are to be decommissioned; and
- Any other information required by the department.

The DEP is prohibited from granting any permit or authorizing in any other manner activities for the purpose of oil and gas development and production, including drilling of any well, until the production plan has been approved.

Current law provides that a permit to drill for oil and gas cannot be granted within 3 miles of the limits of a municipality or an improved beach located outside the limits of a municipality unless the municipality or county in which the improve beach is located approves the permit application. Section 13 provides that these permitting restrictions do not apply where structures or equipment above the surface of the water is more than 3 miles from the limits of a municipality or an improved beach.

Section 13 also repeals the limitation from granting permits to drill for oil and gas within the state's territorial seas, and provides that no well can be drilled for the exploration or production of oil and gas from a location within 1 mile inland from the mean high water line, except as authorized by the Board if on state-owned land, or if not on state land, as may be authorized by the local government having jurisdiction over the wellhead location.

[Page 35] Section 14. Amending s. 377.2408 - Application to conduct geophysical operations

Section 14 provides that an application to conduct geophysical operations must contain a detailed description of the total area that the applicant seeks to survey, any existing biological assessments on the effects of seismic activity on marine species, identification of any marine mammals that may exist in the surveying area and measures to be taken to mitigate any potential impacts, and the type of technology to be used to carry out the geophysical activity.

[Page 36] Section 15. Amending s. 377.2409 - Geophysical activities; confidential information; penalties

Section 15 requires that any person conducting geophysical activities on state owned lands or submerged lands must submit all information derived from the geophysical activities, including interpreted data derived from the activity. Any information received under this section shall be held confidential for 10 years upon the request of the person conducting geophysical activities.

[Page 36] Section 16. Amending s. 377.242 - Permits for drilling or exploring and extracting through well holes or by other means

Section 16 provides that upon the request of the applicant, the DEP must combine into a single permit all authorizations for the drilling for, production of, or transportation by pipeline of oil, gas, or other petroleum products which are extracted from below the surface of submerged lands. The DEP must also consider all applicable criteria of any permit that would otherwise be required under chapters 161 and 373, F.S., and the consideration of such criteria is in lieu of any requirement that the applicant apply for or obtain said permits independently of or in conjunction with any permit applied for under this chapter.

Section 16 also provides that the following prohibitions do not apply to pipelines for the purpose of transporting offshore production onshore:

- No structure 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.
- No structure 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.
- No structure 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.
- No structure 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.

In addition, section 16 provides the following prohibitions do not apply to the permitting or construction of offshore structures intended for the exploration or production of oil, gas, or other petroleum products where any structures or equipment above the surface of the water is more than 3 miles seaward from the mean high water line:

- No structure 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.
- No structure 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.

- No structure 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.

[Page 39] Section 17. Amending s. 380.04 – Definition of development

Section 17 provides that activities on state-owned lands primarily for, appurtenant to, drilling, exploration or production, and transportation of oil, gas, or other petroleum products from an oil and gas lease covering state-owned submerged lands within the seaward boundary of the state cannot be taken to involve "development" for the purpose of chapter 380, F.S.

[Page 40] Section 18. Amending s. 380.06 – Developments of regional impact

Section 18 provides that any proposed facility used primarily for, or appurtenant to, drilling, exploration, production, or transportation by pipeline of oil, gas, or other petroleum products from an oil and gas lease over state-owned submerged lands within the seaward boundary of the state are exempt from the regulations pertaining to developments of regional impact.

[Page 41] Section 19. Effective Date

This act will take effect July 1, 2010.