

State Oil and Gas Legislation¹
HB 1219 by Representative Van Zant²
2009 Regular Session

HB 1219 authorizes the Governor and Cabinet, acting as the Board of Trustees of the Internal Improvement Trust Fund (BOT), to approve offshore oil and gas leases on state-owned submerged lands. The BOT would be required to accept bids on or before September 1 of each calendar year. Bids 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 (**note that for subsurface structures there is no 3 mile limitation**);
- A statement and map identifying 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 1/8th in kind, or in value; however, upfront payments in lieu of royalties can be proposed and may reduce the minimum 1/8th royalty.

The bill requires a surety or property bond, an irrevocable letter of credit, or other proof of financial responsibility from each lessee, which shall not exceed the lesser of:

- \$500 million, or;
- A calculated cost estimate for potential damage related, but not limited, to air, water, and ground pollution, destruction of wildlife or marine productivity and any other damage which impairs the health and general welfare of the citizens of the state, as based on reasonably 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.

Environmental risks are not otherwise substantively addressed in HB 1219. However, the House has indicated that next year's legislation may contain additional provisions, such as:

- Requiring the highest and most stringent financial assurance (no details have been released on what that might be or how that would differ from the bond requirements in HB 1219);
- Banning permanent drilling structures and allowing only ship-based drilling equipment;
- Requiring all drilling equipment to be submerged or have limited platforms as necessary for shut off and environmental safety, as far from shore as practicable – **no closer than 6 miles** – and no visibility from the shoreline;
- Prohibiting drilling from areas designated as environmental protection zones; and
- Prohibiting drilling from areas designated by Federal Code as restricted for military use.

These ideas are conceptual in nature – bill text is not likely to be available until next session.

¹ Prepared by Diana Ferguson, Legislative Staff Attorney, for the FAC Energy Independence Workgroup's June 25, 2009 meeting at the FAC Annual Conference.

² HB 1219 did not have a companion and died in Senate messages. Similar legislation is expected to be filed next year. It appears to be much more likely that the Senate will address the issue in some manner next session.