

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs and Space

BILL: SR 1820

INTRODUCER: Senator Hooper

SUBJECT: Moratorium on Drilling in the Gulf of Mexico

DATE: April 9, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Favorable
2.	Brown	Caldwell	MS	Favorable
3.			RC	

I. Summary:

SR 1820 states that:

- The State of Florida must maintain a unified front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line;
- To allow drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas; and
- The Florida Senate supports an indefinite extension of the restriction, specified in the Gulf of Mexico Security Act of 2006 (GOMESA), on oil and gas leasing in all areas east of the Military Mission Line established at 86°41' west longitude and an indefinite extension of GOMESA's ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

II. Present Situation:

Gulf of Mexico Range Complex

Florida's 20 major military installations and defense business presence provide a nearly \$84.9 billion annual economic impact and account for 801,747 jobs in Florida.¹ Additionally, Florida is home to: three unified combatant commands; two of only four Navy deep water ports in the United States with adjacent airfields; the military's only east coast space launch facility; the Marine Corps' only maritime prepositioning force facility; one of only three Navy Fleet

¹ Enterprise Florida, *Florida's Military Profile*, 1 (2018), available at http://www.enterpriseflorida.com/wp-content/uploads/Military_Install_Map.pdf (last visited Mar. 28, 2019).

Readiness Centers; and several critical research, development, training, and evaluation centers.² The “military mission line” is the 86° 41’ line in the Gulf of Mexico.³ The area in the Gulf of Mexico east of the military mission line provides approximately 101,000 square miles of surface and airspace, making it the largest over-water United States Department of Defense test and training area in the continental United States.⁴

Joint basing, joint usage, and joint training areas are vital to assessing the future of a military base. Florida’s military bases are dependent on access to the air and sea space provided by the Gulf of Mexico Range Complex (GOMEX Range Complex). The GOMEX Range Complex is larger than all other training ranges inside the continental United States combined and has been in use for over 60 years.⁵ The GOMEX Range Complex stretches from the Florida Panhandle south to Key West and encompasses the eastern Gulf of Mexico.⁶ The GOMEX Range Complex “supports NAS Pensacola, NAS Whiting Field, Hurlburt Air Force Base, Duke Field, Eglin Air Force Base, NSA Panama City, Tyndall Air Force Base, MacDill Air Force Base, and NAS Key West missions directly while also supporting Joint live fire weapons and operational testing for Air Force, Navy and Marine units from around the world.”⁷ The GOMEX Range Complex also contains multiple live-fire bombing ranges, including Pinecastle Range, Avon Park Air Force Range, and Eglin Bombing Range that allow for simultaneous maritime, air, and land training exercises.⁸

New technology is constantly emerging along with the need for more integrated realistic training missions in order to keep up with ever changing global threats. Consequently, Air Force and Navy ranges within the GOMEX Range Complex must keep pace to ensure they will be capable of handling the new aircraft and weapons requirements.⁹ Due to its capabilities of offering joint training exercises, access to sea and land, and close proximity to Florida’s bases, the GOMEX Range Complex serves as a vital part of the Department of Defense’s training strategies.

Oil Production in the Gulf of Mexico

Offshore drilling and oil exploration in the Gulf of Mexico began in the 1930s. According to the U.S. Department of Energy, in 2016 Gulf of Mexico offshore production accounted for 17

² Enterprise Florida, *Florida Defense Factbook*, 5 (Sept. 2015), available at <http://www.coj.net/departments/military-and-veterans-affairs/docs/2015-fl-defense-factbook-sept-2015.aspx> (last visited Mar. 28, 2019).

³ Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 4 (2017), available at <https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatibility.pdf> (last visited Mar. 28, 2019).

⁴ U.S. DOD, Office of the Secretary of Defense, *Preserving Military Readiness in the Eastern Gulf of Mexico*, 2 (May 2018), available at <http://www.iadc.org/wp-content/uploads/2018/05/DOD-Offshore-Report.pdf> (last visited Mar. 28, 2019).

⁵ Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 1 (2017), available at <https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatibility.pdf> (last visited Mar. 28, 2019).

⁶ *Id.*

⁷ *Id.* at 2.

⁸ Enterprise Florida, *Florida Defense Factbook*, 5 (Sept. 2015), available at <http://www.coj.net/departments/military-and-veterans-affairs/docs/2015-fl-defense-factbook-sept-2015.aspx> (last visited Mar. 28, 2019).

⁹ Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 3 (2017), available at <https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatibility.pdf> (last visited Mar. 28, 2019).

percent of total U.S. crude oil production and five percent of total U.S. dry natural gas production.¹⁰

In 2018, the State Constitution was amended to prohibit drilling for exploration or extraction of oil or natural gas on lands “beneath all state waters which have not been alienated and that lie between the mean high water line and the outermost boundaries of the state’s territorial seas.”¹¹ Mean high water is the average height of high waters over a 19-year period, and the “mean high water line” is where this mean high water intersects with the shore.¹² The mean high-water line generally represents the boundary between the state-owned foreshore (alternately covered and uncovered by the tide) and the dry sand above the mean high water line which may be privately owned.¹³ The seaward boundaries of Florida’s state waters are from shore to three nautical miles into the Atlantic Ocean, and from shore to approximately nine nautical miles into the Gulf of Mexico.¹⁴

The federal government’s jurisdiction over submerged lands, subsoil, and seabed extends from the seaward extent of the state’s jurisdiction to the seaward limits defined under accepted principles of international law (generally 200 to 350 nautical miles from the territorial sea baseline).¹⁵ The Department of Interior’s Bureau of Ocean Energy Management is responsible for administering the National Outer Continental Shelf Oil and Gas Leasing Program for oil and gas lease sales proposed for planning areas of the U.S. Outer Continental Shelf.¹⁶ The program specifies the size, timing, and location of potential leasing activity that the Secretary of the Interior determines will best meet national energy needs.¹⁷

After the OPEC crisis in the 1970s and the September 11, 2001 attacks, interest in energy production, particularly domestic oil and natural gas, grew.¹⁸ The Department of Defense became concerned about the possibility of an unchecked expansion of oil drilling platforms in the eastern Gulf of Mexico conflicting with military training and weapons testing in the GOMEX Range Complex.¹⁹ In 2005, the Secretary of Defense sent a memo to the United States Senate Armed Services Committee stating the concern and that the Department of Defense would work

¹⁰ U.S. Energy Information Administration website, *Gulf of Mexico Fact Sheet*, https://www.eia.gov/special/gulf_of_mexico/ (last visited Mar. 28, 2019).

¹¹ FLA CONST. art. II, s. 7(c).

¹² Section 177.27(14), (15).

¹³ Section 177.28, F.S.; Section 177.27(9), F.S. The full definition of “foreshore” is “the strip of land between the mean high-water and mean low-water lines that is alternately covered and uncovered by the flow of the tide.”

¹⁴ 42 U.S.C. § 1312; *United States v. States of La., Tex., Miss., Ala., & Fla.*, 364 U.S. 502, 503 (1960); DEP, *Florida Coastal Management Program Guide, A Guide to the Federally Approved Florida Coastal Management Program*, 7 (2017), available at https://floridadep.gov/sites/default/files/FCMP-Program-Guide-2017_0.pdf; FWC, *Boundary Maps and Management Zones*, <https://myfwc.com/fishing/saltwater/recreational/maps/> (last visited Mar. 28, 2019).

¹⁵ Department of the Interior Bureau of Ocean Energy Management, *Outer Continental Shelf*, <https://www.boem.gov/Outer-Continental-Shelf/> (last visited Mar. 28, 2019).

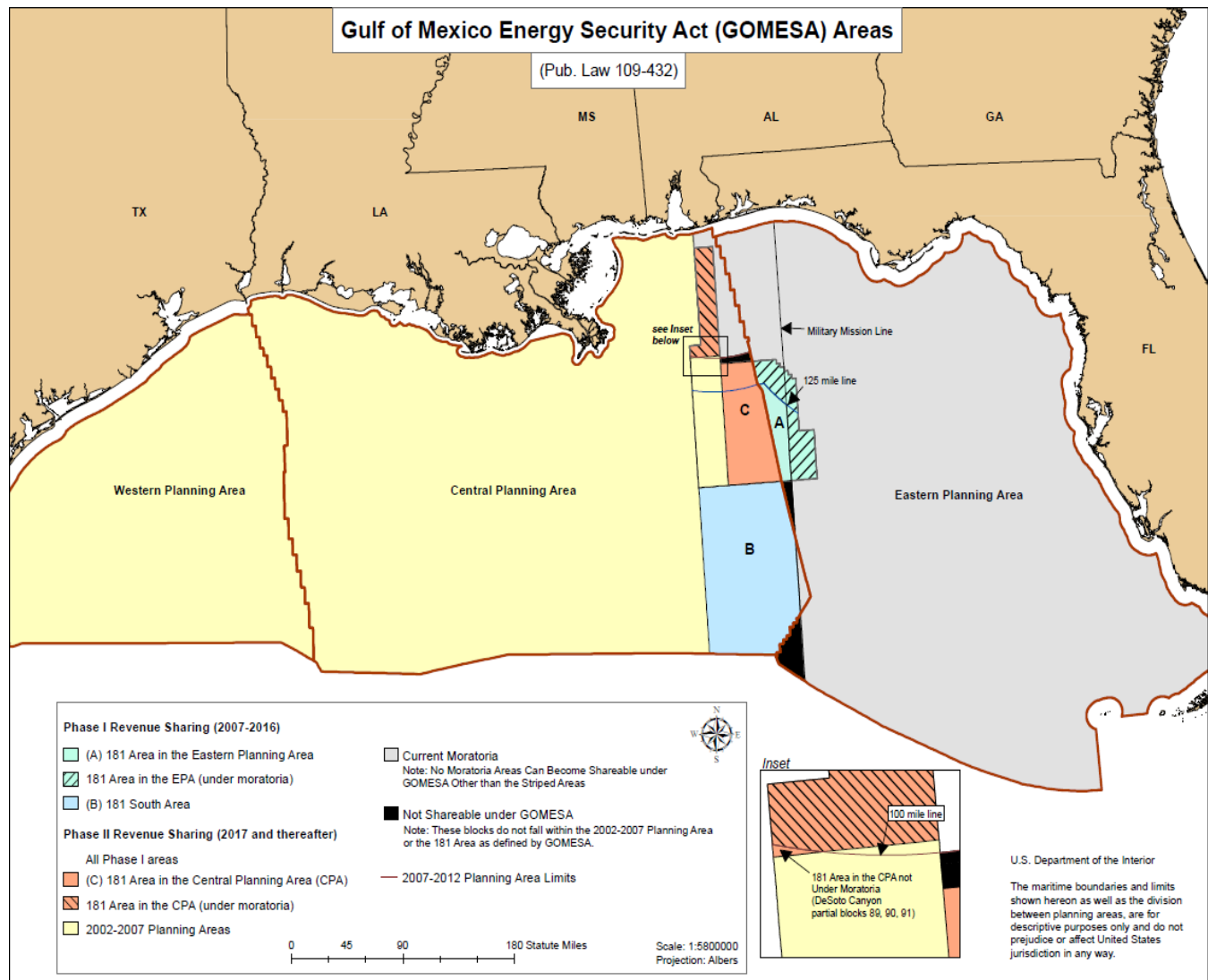
¹⁶ Department of the Interior Bureau of Ocean Energy Management, *National OCS Oil and Gas Leasing Program*, <https://www.boem.gov/National-OCS-Program/> (last visited Mar. 28, 2019).

¹⁷ *Id.*

¹⁸ Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 2 (2017), available at <https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatibility.pdf> (last visited Mar. 28, 2019).

¹⁹ *Id.* at 4.

with the Department of Interior to strike a balance between the nation's energy needs and national security goals.²⁰



Gulf of Mexico Energy Security Act of 2006

The Secretary of Defense's memo led to federal legislation limiting oil and gas production in the Gulf of Mexico. On December 20, 2006, the federal Gulf of Mexico Energy Security Act of 2006 (GOMESA) was signed into law.²¹ GOMESA enhances Outer Continental Shelf oil and gas leasing activities and revenue sharing in the Gulf of Mexico by:

- Sharing leasing revenues with Gulf producing states and the Land & Water Conservation Fund for coastal restoration projects;

²⁰ *Id.*

²¹ Gulf of Mexico Energy Security Act of 2006, Pub. L. No. 109-432, S. 3711, 109th Cong. (Dec. 20, 2006), available at <https://www.congress.gov/bills/109th-congress/senate-bill/3711> (last visited Mar. 28, 2019).

- Banning oil and gas leasing within 125 miles off the Florida coastline in the Eastern Gulf of Mexico Planning Area, and a portion of the Central Planning Area until 2022; and
- Allowing companies to exchange certain existing leases in moratorium areas for bonus and royalty credits to be used on other Gulf of Mexico leases.²²

GOMESA restricts leasing activities that include portions of the Eastern Planning Area within 125 miles of Florida, all areas in the Gulf of Mexico east of the military mission line, and the area within the Central Planning Area that is within 100 miles of Florida.²³

Efforts to Revise the Moratorium

In 2013, the “Offshore Energy and Jobs Act” was introduced to remove limits imposed by GOMESA, including shortening the duration of the moratorium from 2022 to 2017.²⁴ The bill passed the House of Representatives; however, it was never taken up in the Senate.²⁵

Two years later a similar bill, the “Offshore Energy and Jobs Act of 2015,” was filed.²⁶ Among other things, the bill reduced the exclusion area east of the military mission line from 125 miles to 50 miles off shore and reduced the area subject to the moratorium in the Central Planning Area off the coastline of Florida. The bill was never heard in the Senate.²⁷

On April 28, 2017, the President issued an executive order with the intent to expand offshore drilling in the Arctic and Atlantic Oceans, in addition to assessing whether energy exploration could take place in marine sanctuaries in the Pacific and Atlantic Oceans.²⁸ The order also directs the Secretary of the Interior, in consultation with the Secretary of Defense, to review “the schedule of proposed oil and gas lease sales...in the Western Gulf of Mexico, Central Gulf of Mexico, Chukchi Sea, Beaufort Sea, Cook Inlet, Mid-Atlanta, and the South Atlantic.”²⁹

Subsequently, in October, 2017, Department of the Interior Secretary Zinke announced that the department was proposing “the largest oil and gas lease sale ever held in the United States, 76,967,935 acres in federal waters of the Gulf of Mexico, offshore of Texas, Louisiana, Mississippi, Alabama, and Florida.”³⁰ The proposed lease sale was scheduled for March 2018.³¹

²² Department of the Interior Bureau of Ocean Energy Management, *Gulf of Mexico Energy Security Act*, <https://www.boem.gov/Revenue-Sharing/> (last visited Mar. 28, 2019).

²³ *Id.*

²⁴ Offshore Energy and Jobs Act, H.R. 2231, 113th Cong. (June 4, 2013), available at <https://www.congress.gov/bill/113th-congress/house-bill/2231> (last visited Mar. 28, 2019).

²⁵ *Id.*

²⁶ S. 1276, 114th Cong. (May 11, 2015), available at <https://www.congress.gov/bill/114th-congress/senate-bill/1276> (last visited Mar. 28, 2019).

²⁷ *Id.*

²⁸ Executive Order 13795, available at <https://www.federalregister.gov/documents/2017/05/03/2017-09087/implementing-an-america-first-offshore-energy-strategy> (last visited Mar. 28, 2019).

²⁹ *Id.*

³⁰ Department of the Interior Press Release, October 24, 2017, available at <https://www.doi.gov/pressreleases/secretary-zinke-announces-largest-oil-gas-lease-sale-us-history> (last visited Mar. 28, 2019).

³¹ *Id.*

On January 4, 2018, Secretary Zinke announced a draft proposed National Outer Continental Shelf Oil and Gas Leasing Program that would make over 90 percent of the total outer continental shelf acreage and more than 98 percent of undiscovered, technically recoverable oil and gas resources in federal offshore areas available for future exploration and development.³² By contrast, the current oil and gas leasing program puts 94 percent of the outer continental shelf off limits. In addition to the largest number of lease sales in U.S. history, the proposed program announced in January of 2018 included two lease sales in portions of the Eastern and Central Gulf of Mexico after the expiration of the Congressional moratorium in 2022, making the majority of the Eastern Gulf of Mexico Planning Area available for leasing for the first time since 1988.³³ However, news organizations reported that on January 9, 2018, after meeting with Florida's Governor Rick Scott, Secretary Zinke said that he would not allow offshore drilling in waters near Florida through 2024.³⁴ A spokeswoman for the Department of Interior said that Gulf and Atlantic waters adjacent to Florida would be removed from consideration for the plan that covers drilling rights sales from 2019 to 2024.³⁵

On March 12, 2019, officials from the Department of the Interior announced that the Bureau of Ocean Energy Management proposed to offer 78 million acres for a region-wide lease sale in August of 2019, known as Lease Sale 253.³⁶ The sale would include all available unleased areas in federal waters of the Gulf of Mexico.³⁷ The Department of the Interior's press release states that blocks subject to the congressional moratorium established by GOMESA would be excluded from Lease Sale 253.³⁸

Expanding the Current Moratorium

Senator Bill Nelson (D-FL) filed the "Marine Oil Spill Prevention Act" in January, 2017.³⁹ The bill, among other things, would have extended the moratorium in GOMESA to 2027.

In May of 2017, acting Under Secretary of Defense, Anthony Kurta, sent a letter to Representative Matt Gaetz (R-FL) stating that military training and related exercises in the Eastern Gulf necessitate a continuation of the GOMESA. Kurta also stated that:

Emerging technologies such as hypersonics, autonomous systems, and advanced sub-surface systems will require enlarged testing and training footprints and increased Department of Defense reliance on the Gulf of Mexico

³² Department of the Interior Press Release, January 4, 2018, *Secretary Zinke Announces Plan For Unleashing America's Offshore Oil and Gas Potential*, <https://www.doi.gov/pressreleases/secretary-zinke-announces-plan-unleashing-america-s-offshore-oil-and-gas-potential> (last visited Mar. 28, 2019).

³³ *Id.*

³⁴ Timothy Cama, *Zinke Removing Florida from Offshore Drilling Plan*, THE HILL (Jan. 9, 2018), available at <http://thehill.com/homenews/administration/368208-zinke-to-take-florida-out-of-offshore-drilling-plan> (last visited Mar. 28, 2019).

³⁵ *Id.*

³⁶ Department of the Interior Press Release, March 12, 2019, *Interior Proposes Region-Wide Oil and Gas Lease Sale 253 for Gulf of Mexico*, <https://www.doi.gov/pressreleases/interior-proposes-region-wide-oil-and-gas-lease-sale-253-gulf-mexico> (last visited Mar. 28, 2019); see Bureau of Ocean Energy Management, *Lease Sale 253*, <https://www.boem.gov/Sale-253/> (last visited Mar. 28, 2019).

³⁷ *Id.*

³⁸ *Id.*

³⁹ S. 74, 115th Cong. (Jan. 9, 2017), available at <https://www.congress.gov/bill/115th-congress/senate-bill/74?q=%7B%22search%22%3A%5B%22oil+drilling+moratorium%22%5D%7D&r=1> (last visited Mar. 28, 2019).

Energy Security Act's moratorium beyond 2022. The moratorium is essential for developing and sustaining our nation's future combat capabilities.⁴⁰

Additionally, county commissions, chambers of commerce, local economic development councils, and military affairs committees from counties bordering the Gulf of Mexico have provided resolutions in support of the GOMESA to the Florida Legislature.⁴¹

Senator Marco Rubio (R-FL) filed the "Florida Shores Protection and Fairness Act" in January of 2019.⁴² The bill extends the moratorium to June 30, 2027.

III. Effect of Proposed Changes:

The resolution, through whereas clauses states the importance of the GOMEX Range Complex and concerns over efforts to allow oil and gas exploration and production in the area. The resolution states that:

- The State of Florida must maintain a unified front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line;
- To allow drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas; and
- The Florida Senate supports an indefinite extension of the restriction, specified in the Gulf of Mexico Security Act of 2006 (GOMESA), on oil and gas leasing in all areas east of the Military Mission Line established at 86°41' west longitude and an indefinite extension of GOMESA's ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

As SR 1820 is a resolution, mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

⁴⁰ Congressional Record, Senator Bill Nelson's Remarks, *Gulf of Mexico Oil Drilling Moratorium* (May 1, 2017), available at <https://www.congress.gov/congressional-record/2017/05/01/senate-section/article/S2654-4> (last visited Mar. 28, 2019).

⁴¹ Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 5, 6, and Attachment 2 (2017), available at <https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatibility.pdf> (last visited Mar. 28, 2019).

⁴² S.13, 116th Cong. (Jan. 3, 2019), available at <https://www.congress.gov/bill/116th-congress/senate-bill/13?s=1&r=54> (Mar. 28, 2019).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This Senate resolution does not amend the Florida Statutes. If enacted, it will become an undesignated chapter law codified in the Laws of Florida.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
