STORAGE NAME: H0669.ep
DATE: April 3, 1997

HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: H669

RELATING TO: Oil and Gas Drilling

SPONSOR(S): Representative Safley

STATUTE(S) AFFECTED: s. 377.2425

COMPANION BILL(S): CS/SB 550 by Natural Resources & Senator Latvala

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) ENVIRONMENTAL PROTECTION
(2) GENERAL GOVERNMENT APPROPRIATIONS
(3)
(4)
(5)

I. SUMMARY:

HB 669 will eliminate joining the Minerals Trust Fund as an option for an applicant to provide surety for proposed drilling in waters of the state. Requires the Governor and Cabinet to set forth the amount of surety required of applicants for oil and gas drilling permits when taking place in the coastal waters of the state that by their nature warrant greater surety than normal.

This bill will take effect immediately upon becoming law.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The history of off-shore oil and gas production for Florida dates back to the 1940's. At that time the state entered into a lease that stretches from Naples to Apalachicola. The successor to these leases is Coastal Petroleum Company. Since the original lease the state has gone to court and in 1976 the lease was modified and now applies to a section of the Gulf of Mexico that still stretches from Naples to Apalachicola but is limited to an area 7.36 to 10.36 miles off-shore.

Since that time, ss. 377.242 - 377.2425, F.S., have been enacted to provide guidelines for granting permits. Section 377.242, F.S., grants the Department authority to issue permits, and ss. 377.2421-377.2425, F.S., provide application requirements. Applicants for a permit to drill for, or produce, oil or gas must provide surety that the operations will be conducted in a safe and environmentally compatible manner. As specified in s. 377.2425, F.S., there are two options available to the applicants for providing surety. Under s.377.2425(a), F.S., an applicant may provide a cash or other securities deposit, a bond, or an irrevocable letter of credit, payable to the Mineral Trust Fund. Pursuant to s.377.2425(b), F.S., applicants have the other option of joining the Minerals Trust Fund, to do so they must pay $4,000 for each permitted well the first year, for each subsequent year the fee is $1,500 per permitted well. The maximum fee under this option is $30,000 per calendar year, regardless of the number of permits applied for or in effect.

Coastal applied for a permit for oil and gas exploration off the panhandle coast near St. George Island and had paid the $4,000 dollar fee required under 377.2425(b), F.S., into the Minerals Trust Fund. The Department of Environmental Protection calculated, based on an oil spill study by Coastal, that it would possibly cost the state $500 million in natural resource damage. DEP then required Coastal to provide $15 million in surety for clean-up costs, and $500 million in surety for damages to natural resources, when Coastal refused to provide this the permit was denied. Coastal appealed the permit denial, and the First District Court of Appeal reversed the permit denial. The Court found that by paying the $4,000, Coastal had satisfied the surety requirements.

The legal battle between the state and Coastal still continues. The Department has since testified their estimate was conservative, and based on a 48-hour clean-up, and natural resource damage compensation, estimated a $1.9 billion surety bond would be required.

B. EFFECT OF PROPOSED CHANGES:

This bill provides that an applicant for a drilling or operating permit for operations planned in the coastal waters of the state, that by their nature warrant greater surety, shall provide surety only in accordance with s. 377.2425(1)(a), F.S., or similar proof of financial responsibility other than through the provisions of s. 377.2425(1)(b), thus eliminating the option of joining the Minerals Trust Fund.

This bill will provide the Governor and Cabinet, in their role as Administration Commission, the authority to set the amount of surety required by applicants be sufficient to protect the interests of the state. The Administration Commission will take into consideration the possible extent of damages, the cost of cleanup and the replacement of natural resources lost to the public.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Allows the Governor and Cabinet to set surety amounts in regards to applications for drilling or operating permits in the coastal waters.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

   a. Does the bill increase anyone's taxes?

      No

   b. Does the bill require or authorize an increase in any fees?

      An increase in the surety amount will be required when oil or gas drilling, or production, warrants such an increase. The amount required will be set by the Administration Commission.

   c. Does the bill reduce total taxes, both rates and revenues?

      No

   d. Does the bill reduce total fees, both rates and revenues?

      No

   e. Does the bill authorize any fee or tax increase by any local government?

      No

3. Personal Responsibility:

   a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

      No

   b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

      No

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      No

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      Allowing the Governor and Cabinet to set surety requirements will add additional procedures for applicants to acquire permits.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

Section 1: Creates s. 377.2425(1)(c), F.S., requiring applicants for drilling or operating permits planned in the coastal waters of the state that by their nature warrant greater surety, provide surety only in accordance with s. 3772425(1)(a), F.S. It also directs the Governor and Cabinet in their capacity as Administration Commission to set the amount of surety required.

Section 2: This act shall take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

With increased amounts of surety required by applicants, in the event of an oil spill or accident, the state would not need to exhaust it's funds or the funds in the Minerals Trust Fund for cleanup, damages, or lost resources.

4. Total Revenues and Expenditures:

Indeterminate

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

   None

3. Long Run Effects Other Than Normal Growth:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   Increased surety requirements will be paid directly by the applicant, through cash payment, bond, or irrevocable letter of credit.

2. Direct Private Sector Benefits:

   This bill will create changes that will provide the state with the financial resources necessary to combat the effect an oil spill would have on the environment and tourism industries.

3. Effects on Competition, Private Enterprise and Employment Markets:

   Increased surety requirements will be paid by the applicant, making it more difficult to acquire permits.

D. FISCAL COMMENTS:

The results of an increased amount of surety provided by the applicants would prevent substantial potential expenditures in state funds for clean-up in the case of a spill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditures of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue-raising authority of cities or counties.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the amount of state tax shared with cities and counties.

V. <u>COMMENTS</u>:

VI. <u>AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES</u>:

VII. <u>SIGNATURES</u>:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

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