

HOUSE BILL REPORT

ESSB 6432

As Reported by House Committee On:
Environment & Energy

Title: An act relating to offshore oil extraction.

Brief Description: Concerning offshore oil extraction.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Rolfes, Carlyle, Randall, Takko, Stanford, Hunt, Lovelett, Darneille, Wilson, C., Das, Keiser and Van De Wege).

Brief History:

Committee Activity:

Environment & Energy: 2/25/20, 2/27/20 [DPA].

**Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)**

- Prohibits infrastructure for handling or transporting oil or gas extracted from the Outer Continental Shelf adjacent to Washington waters in shorelines of the state seaward from the ordinary high-water mark under the Shorelines Management Act.
- Prohibits leasing tidal or submerged lands for infrastructure to handle oil and gas extracted from the Outer Continental Shelf adjacent to Washington waters and transported through state waters under the Ocean Resources Management Act.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; DeBolt, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke, Doglio, Fey, Goehner, Mead, Robinson and Shewmake.

Staff: Nikkole Hughes (786-7156).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Federal Law.

Submerged Lands Act.

The Submerged Lands Act (SLA) grants coastal states title to and ownership of the lands beneath navigable waters out to 3 geographical miles from their coastlines. The SLA also grants states the right and power to manage, administer, lease, develop, and use submerged lands and natural resources in accordance with applicable state law. Boundaries between state and federal waters under the SLA are not fixed unless done so by a deliberate action of the United States Supreme Court.

Outer Continental Shelf Lands Act.

The Outer Continental Shelf Lands Act preserves the federal government's control of the submerged lands and natural resources of the Outer Continental Shelf beyond state boundaries under the SLA and authorizes leasing by the Secretary of the Interior in accordance with certain specified terms and conditions.

Coastal Zone Management Act.

Under the Coastal Zone Management Act, federal actions and federally permitted projects, including those in federal waters, must be submitted for review by the affected states. The purpose of this review is to ensure consistency with state coastal zone management programs.

State Law.

Shorelines Management Act.

The Shorelines Management Act (SMA) requires all counties and most cities and towns with shorelines to develop and implement shoreline management plans. The SMA applies to the shorelines of all marine waters, streams, and rivers with mean annual flow greater than 20 cubic feet per second, lakes 20 acres or larger, upland areas of these shorelands, and wetland and river deltas connected to these water bodies.

Under the SMA, shorelines of statewide significance must be managed in the interests of all Washingtonians. Shorelines of statewide significance include the Pacific coast, Puget Sound, and the Strait of Juan de Fuca. For shorelines of statewide significance, preferred uses are designed to recognize and protect statewide use over local interests, preserve the natural character of the shoreline, have long-term benefits, protect shoreline resources and environments, increase public access, and expand public recreational shoreline opportunities.

Under the SMA, surface drilling for oil and gas is prohibited in the waters of Puget Sound to the Canadian border, the Strait of Juan de Fuca, and on all lands within 1,000 feet landward from the ordinary high-water mark.

A person wishing to perform oil or natural gas exploration activities by vessel located on or within marine waters of the state must first obtain a permit from the Department of Ecology (Ecology), which may approve an application for a permit only under certain circumstances. Decisions on an application for oil or natural gas exploration activities are subject to review only by the Pollution Control Hearings Board. This permit requirement does not apply to activities conducted by a federal or state agency.

Ocean Resources Management Act.

The Ocean Resources Management Act prohibits leasing Washington's tidal or submerged lands for the purposes of oil or gas exploration, development, or production.

Uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, aquaculture, recreation, navigation, air or water quality, or other existing ocean or coastal uses, may be permitted only if certain criteria are met or exceeded.

Energy Facility Site Evaluation Council.

The Energy Facility Site Evaluation Council (EFSEC) provides a single siting process for major energy facilities in the state. The EFSEC coordinates all evaluation and licensing steps for siting certain energy facilities, including:

- crude or refined petroleum or liquefied petroleum facilities that can receive more than an average of 50,000 barrels per day that will be or have been transported over marine waters; and
- liquid natural gas facilities with capacity to receive an equivalent of more than 100 million cubic feet per day that has been transported over marine waters.

Summary of Amended Bill:

Shorelines Management Act.

The legislative findings under the Shorelines Management Act (SMA) are expanded to include a finding that expanding offshore drilling off the coastal ocean waters of Washington has the potential to significantly damage the state's coastline and negatively impact coastal resources. The SMA policy to ensure that the development of shorelines will promote and enhance the public interest is expanded to include ensuring protection from economic and environmental risk for oil spills and pollution brought by offshore oil extraction operations and onshore industrialization associated with the extraction.

Surface drilling for oil or gas, and infrastructure for handling or transporting oil or gas extracted from the Outer Continental Shelf adjacent to Washington waters, is prohibited in shorelines of the state seaward from the ordinary high-water mark.

Ocean Resources Management Act.

The prohibition under the Ocean Resources Management Act against the leasing of Washington's tidal or submerged lands for the purposes of oil or gas exploration, development, or production is expanded to include a prohibition against leasing tidal or submerged lands for infrastructure to handle oil and gas extracted from the Outer Continental Shelf adjacent to Washington waters and transported through state waters.

"Outer Continental Shelf" means all submerged lands lying seaward and outside the area of lands beneath navigable waters, as set forth under the Submerged Lands Act, and all of which appertain to the United States and are subject to its jurisdiction and control.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill:

- corrects an incorrect citation to federal law; and
 - makes a grammatical correction.
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Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In 2018 the United States Department of the Interior announced its intent to open up Outer Continental Shelf lands to offshore drilling under its five-year plan. The majority of people in the state oppose offshore oil drilling. Coastal cities in the state have passed resolutions in opposition to the federal announcement. Since 2018, all coastal states have introduced legislation to prohibit offshore drilling similar to this legislation.

(Opposed) None.

(Other) There are not viable oil and gas resources in the waters of Washington.

Persons Testifying: (In support) Gus Gates, Surfrider Foundation.

(Other) Jessica Spiegel, Western States Petroleum Association.

Persons Signed In To Testify But Not Testifying: None.