

SENATE BILL REPORT

ESSB 6432

As Passed Senate, February 17, 2020

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 & Technology: 1/22/20, 1/30/20 [DPS, w/oRec, DNP].

Floor Activity:

Passed Senate: 2/17/20, 35-12.

Brief Summary of Engrossed First Substitute Bill

- Revises the findings of the Shoreline Management Act master programs to include that expanding offshore drilling has the potential to significantly damage the state's coastline and negatively impact coastal resources.
- Prohibits leasing tidal or submerged lands adjacent to the outer continental shelf for oil or gas surface drilling and infrastructure for handling or transporting through state waters.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 6432 be substituted therefor, and the substitute bill do pass.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Das, Hobbs, Lias, McCoy, Nguyen, Stanford and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Sheldon, Assistant Ranking Member, Energy & Technology; Brown and Rivers.

Minority Report: Do not pass.

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.

Signed by Senators Ericksen, Ranking Member; Fortunato, Assistant Ranking Member, Environment; Short.

Staff: Jan Odano (786-7486)

Background: The Shoreline Management Act (SMA) requires all counties and most towns and cities 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 shore lands, and wetland and river deltas connected to these water bodies.

Preferred uses under the SMA are those that control pollution, prevent damage to the environment, or are unique to or dependent use of the shoreline. These uses include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments, and other developments providing public access.

Under the SMA, shorelines of statewide significance must be managed in the interests of all the people. Shorelines of statewide significance include the Pacific coast; Puget Sound; the Strait of Juan de Fuca; lakes, reservoirs, and rivers of a certain size; and their associated wetlands. 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.

The SMA prohibits surface drilling for oil and gas in the waters of Puget Sound to the Canadian border, the Strait of Juan de Fuca and on all lands within 1000 feet landward of the ordinary high water mark.

The Ocean Resource Management Act (ORMA) establishes guidelines for state and local management over the state's coastal waters, seabed, and shorelines. When conflicts arise among the uses, priority must be given to resource uses and activities not adversely impacting renewable resources over those that are likely to have an adverse impact. Washington has primary jurisdiction over the management of coastal and ocean natural resources within three miles of its coastline. The United States federal government has primary jurisdiction from three miles seaward to the boundary of the two hundred mile exclusive economic zone.

ORMA prohibits leasing tidal or submerged lands along the Washington coast from Cape Flattery to Cape Disappoint, Grays Harbor, Willapa Bay, and the Columbia River to the Longview Bridge for oil and gas exploration, development, and production.

Under federal law, states have title to and ownership of the lands beneath navigable waters and the natural resources within their boundaries. States have the right to manage, administer, lease, develop and use the lands and natural resources in accordance with state law.

Summary of Engrossed First Substitute Bill: The findings of the SMA are revised to include that expanding offshore drilling off the coastal ocean waters has the potential to

significantly damage the state's coastline and negatively impact coastal resources. The SMA policy to ensure the development of shorelines will promote and enhance the public interest is revised to include ensuring protection from economic and environmental risk for oil spill and pollution brought by offshore oil extraction operations and onshore industrialization associated with extraction.

Under ORMA, oil or gas extracted from the outer continental shelf adjacent to Washington state waters is prohibited in shorelines of the state seaward from the ordinary high water mark. Leasing of aquatic lands, tidelands, or submerged lands is prohibited for infrastructure to handle oil and gas extracted from the outer continental shelf adjacent to Washington state waters and transported through state waters.

A definition for the term "outer continental shelf" is provided to mean all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as established under federal law.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill is for extra protection. I want to make sure our coastline, particularly some of the most beautiful beaches in our county are protected from oil drilling. We have heard conversations about opening up lands for oil that have never been before. I want to take these lands off the table. The U.S. Department of Interior recommended opening our waters to offshore drilling. The vast majority of Washingtonian and public oppose offshore drilling. The health of our coastal waters is important to our coastal economies. Many local communities have passed resolutions requesting our federal delegation do all they can to prevent offshore oil and gas drilling. Fishing, tourism and recreation generates \$5.2 billion to the state and employs 84,000 Washingtonians. We need to protect the jobs and coastal economy of the state.

CON: The language is too broad and it could be applied to refineries. As written it could ban the ability for refineries from bringing in crude via the necessary infrastructure on state lands. It could be also applied to any oil or gas supplied to a refinery as all refineries accept crude and feedstock over docks.

OTHER: We are working through the issues between the interface between ORMA and the SMA.

Persons Testifying: PRO: Senator Christine Rolfes, Prime Sponsor; Gus Gates, Washington Policy Manager, Surfrider Foundation.

CON: Greg Hanon, Western States Petroleum Association.

OTHER: Gerry O'Keefe, Public Ports Association.

Persons Signed In To Testify But Not Testifying: No one.