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Proposed State Offshore Oil & Gas Legislation and Resolutions: 2017-18

Marine Affairs Institute, Roger Williams University School of Law

Megan Betts

Rhode Island Sea Grant Law Fellow and J.D. Candidate, 2019, Roger Williams University School of Law

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Proposed State Offshore Oil & Gas Legislation and Resolutions: 2017-18

Rhode Island Sea Grant Law Fellow Program

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The current U.S. administration in recent years has taken actions to allow new leasing of offshore areas for oil and gas production. In April, 2017, President Trump issued an executive order reducing the areas withdrawn from eligibility for leasing and directing the Secretary of Interior to “give full consideration to revising the schedule of proposed oil and gas lease sales . . . so that it includes . . . annual lease sales, to the maximum extent permitted by law.”¹ In response to this directive, in January, 2018, the Bureau of Ocean Energy Management (BOEM) within the Department of Interior issued a new proposed five-year leasing program for 2019-2024.² As a consequence of these actions large areas of U.S. offshore waters will be newly opened to oil and gas leasing, including the Atlantic coast.

States have resisted the federal actions to expand offshore oil and gas development through the development of proposed and enacted legislation and resolutions. For example, Rhode Island house bill 7250 would prohibit drilling and associated activities in the state.³ This study documents the status of this and other state legislative efforts to resist opening nearby offshore waters to oil and gas development. This research was conducted during 2018 for legislation and legislative resolutions during the then-current legislative session in each state. This information can enable interested legislators to consider approaches taken in different jurisdictions when considering whether and how to act on similar matters.

¹ Exec. Order No. 13,795, 82 Fed. Reg. 20,815 (May 3, 2017), <https://www.govinfo.gov/content/pkg/FR-2017-05-03/pdf/2017-09087.pdf>.

² BOEM, 2019–2024 NATIONAL OUTER CONTINENTAL SHELF OIL AND GAS LEASING DRAFT PROPOSED PROGRAM (Jan. 2018), <https://www.boem.gov/NP-Draft-Proposed-Program-2019-2024/>.

³ H. 7250, Gen. Assemb., Jan. Sess. (R.I. 2018).

This guide is a product of the Marine Affairs Institute at Roger Williams University School of Law and the Rhode Island Sea Grant Legal Program. Megan Betts, Rhode Island Sea Grant Law Fellow, conducted research and drafting under the guidance of Read Porter, Senior Staff Attorney. All errors and omissions are the responsibility of the Marine Affairs Institute. This study is provided only for informational and educational purposes and is not legal advice.



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Rhode Island

The Offshore Oil And Gas Drilling and Exploration Activities Control Act, H. 7250, Gen. Assemb., Jan. Sess. (R.I. 2018).

Status: House Committee recommended measure be held for further study

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> • “Regulates activities of offshore drilling for oil and gas in federal waters to minimize adverse effects resulting therefrom within the state’s territorial waters and coastline.” • Prohibition against construction of facilities and pipelines, and offshore drilling; power and duties to director of department of environmental management; violations subject to damages/costs and criminal penalties 	<p>Environmental/Ecological:</p> <ul style="list-style-type: none"> • Oil spills and pollution due to drilling operations • Contribute to loss of wetlands, climate change and sea level rise and extreme weather • Seismic airgun blasts disrupt marine life <p>Economic and Employment:</p> <ul style="list-style-type: none"> • Oil spills would have negative economic impact • Negative affect on tourism and recreation • Harmful impact on other communities that rely on marine industry <p>Aesthetics:</p> <ul style="list-style-type: none"> • Unattractive onshore infrastructure, pipelines, refineries

New Jersey

Shore Tourism and Ocean Protection from Offshore Oil and Gas Act, P.L. 839, S. and Gen. Assemb., Reg. Sess. (N.J. 2018).

Status: Enacted into law

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> • “Offshore drilling, exploration, development and production are prohibited” in NJ waters • No permits to be issued to “develop, adopt, or endorse any plans for the exploration, development, or production of oil and natural gas” • Investigate “lease, license, permit, or plans” to conclude if they can “reasonably be expected to affect State waters” 	<p>Economy/Tourism:</p> <ul style="list-style-type: none"> • \$38 billion tourism industry, billion-dollar fishing industry • Recreation for residents and tourists <p>Environmental:</p> <ul style="list-style-type: none"> • Tidal waters are home to countless animal and plant species • Oil spill concern

New York

An Act to amend the environmental conservation law, in relation to prohibiting state authorizations related to certain offshore oil and natural gas production, S.B. 8017, 2018 Gen. Assemb., (N.Y. 2018).

Status: Referred to Environmental Conservation Committee

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Prohibits “new lease/conveyance, lease renewal, extension or modification, that authorizes the exploration for, or the development and production of, oil or natural gas upon lands owned by the state in the marine and coastal district . . . that would result in the increase of oil or natural gas production from federal waters” Amend and add definitions of "Development," "Exploration," "Federal waters," "New or additional exploration, development, or production of oil or natural gas," and "Production” 	No findings provided

Maine

Joint Resolution Memorializing the President of the United States and the United States Congress to Exclude the State of Maine from Offshore Oil and Gas Drilling and Exploration Activities, H.R.J. Res. 1279, 128th Leg. Sess. (Me. 2018).

Status: Adopted as joint resolution

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Opposes exploration and requests exclusion from leasing “Oppose any plan or legislation that encourages oil and gas exploration offshore that would negatively affect the citizens” 	<p>Economic/Employment:</p> <ul style="list-style-type: none"> “over 46,319 jobs and more than \$2,300,000,000 of the State's gross domestic product depend on clean, oil-free water and beaches and abundant fish and wildlife;” and “over 65% of the State's ocean-derived income stems from our tourism and recreation sector, contributing over \$1,200,000,000 to the State's economy” <p>Environmental:</p> <ul style="list-style-type: none"> “ecological risk from oil spills and the pollution brought by routine drilling operations and onshore industrialization, threatening the quality of life and livelihoods” of residents and industries

Massachusetts

An Act to promote a clean energy future, S.2564, 190th Gen. Ct. (Mass. 2018).

Status: Passed by Senate

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Enforce restrictions on drilling, waste treatment and disposal and mining activities which have been enacted to protect the water quality and the natural resources of the commonwealth Create report on public divestment from fossil fuel companies 	No findings provided

Connecticut

No legislative actions were identified.

New Hampshire

No legislative actions were identified.

Delaware

[*An Act to Amend Title 7 of the Delaware Code Relating to Offshore Drilling and the Coastal Zone*](#), S.B. 200, 149th Gen. Assemb., Reg. Sess. (Del. 2018).

Status: Enacted into law

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> “This Act prohibits drilling for oil or natural gas in Delaware’s coastal zone and territorial waters and precludes DNREC from issuing any permits in connection with the development of offshore drilling infrastructure, whether proposed for Delaware territorial waters or waters outside of the State.” 	Tourism: <ul style="list-style-type: none"> Protection of beaches and swimming water quality One in nine workers in the state owes his or her job to tourism, which is the 4th largest private employer in the state, accounting for 42,750 jobs In 2016, tourism contributed \$3 billion to Delaware’s gross domestic product, and the industry generated \$470 million in taxes and fees for state and local government; without tourism, each Delaware household would pay an additional \$1,434 in taxes

Maryland

[*Offshore Drilling Liability Act*](#), H.B. 1456, 2018 Leg., Reg. Sess. (M.D. 2018).

Status: Enacted into law

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Expands the definition of "offshore drilling activity" to mean the exploration, development, production or transportation of oil or gas on or under the outer continental shelf 	Public policy: <ul style="list-style-type: none"> Oil and gas legislation is an ultrahazardous activity that should be subject to strict liability that cannot be discharged by contract

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Establishes that offshore drilling activity is an ultrahazardous and abnormally dangerous activity and that a person who causes a spill of oil or gas while engaged in an offshore drilling activity is strictly liable for certain damages 	

Virginia

No legislative actions were identified.

North Carolina

No legislative actions were identified.

South Carolina

[*A Concurrent Resolution to Express the Support of the South Carolina General Assembly to Offshore Drilling Activities Off South Carolina's Coast and the Potential Economic and Environmental Benefits of Domestic Energy Production for the State*](#), H. 4835 Con. Res., 122nd Gen. Assemb., Reg. Sess. (S.C. 2018)

Status: Referred to Committee on Invitations and Memorial Resolutions

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Disagreeing with governor's decision to seek waiver from offshore oil and gas development Expressing support for federal oil and gas development off South Carolina 	<p>Economic Benefits:</p> <ul style="list-style-type: none"> "[E]xploratory and commercial drilling, extraction, and transportation of offshore oil and gas in South Carolina would generate over 35,000 jobs by 2035, more than four billion dollars in annual added economic activity, and almost four billion dollars in new state revenue" "[A]griculture, business, manufacturing and individual households would each benefit from lower energy costs" <p>Environmental Benefits:</p> <ul style="list-style-type: none"> "[O]ffshore oil production lowers the amount of oil released into the ocean by reducing the natural seepage of oil, with sixty-three percent of hydrocarbon pollution in the waters of the United States coming from natural seeps, while only one percent is due to offshore drilling and extraction" "[O]il rigs create new and unique environments in the ocean for marine species to inhabit as fish, birds, and other marine life flock to the rig and establish themselves on these manmade structures as if they were reefs"

[*A Concurrent Resolution to Express the Support of the South Carolina General Assembly to Offshore Drilling Activities Off South Carolina's Coast and the Potential Economic and Environmental Benefits of Domestic Energy Production for the State*](#), H. 4887 Con. Res., 122nd Gen. Assemb., Reg. Sess. (S.C. 2018).

Status: Referred to Committee on Agriculture, Natural Resources and Environmental Affairs

Note: Resolution is identical to H. 4835

A Concurrent Resolution to Memorialize the United States Congress and Urge the Members to Prohibit Seismic Surveys or Offshore Oil and Gas Drilling Off the Coast of South Carolina, and to Join the Members of the South Carolina General Assembly in Protecting the Beautiful Beaches, Sea Islands, and Estuaries of the State from the Inevitable Pollution of the Air and Sea if Seismic Surveys or Offshore Oil and Gas Drilling is Allowed to Take Place Off of South Carolina, Resulting in a Negative Impact on the Quality of Life Along Our Coast and a Detrimental Effect on the Tourism Industry of the State, H. 4896 Con. Res., 122nd Gen. Assemb., Reg. Sess. (S.C. 2018).

Status: Referred to Committee on Agriculture, Natural Resources and Environmental Affairs

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Directing memorandum to be delivered to Congress to prohibit seismic surveys and offshore oil and gas drilling off South Carolina 	<p>Environment:</p> <ul style="list-style-type: none"> Air and sea pollution Substantial risk to coastal environment because there is “no drilling technology that can prevent oil spills” “[L]egacy and nature of these beaches, sea islands, and estuaries that are like no other in the United States” <p>Tourism:</p> <ul style="list-style-type: none"> Tourism is at least a \$20 billion industry, decrease of which will negatively impact the economy through “loss of jobs, capital investment, income, and irreplaceable contributions to the state's tax base”

Georgia

A Resolution Supporting Georgia's Coastal Tourism and Fisheries and Opposing Seismic Testing and Oil and Gas Drilling Activities Off of Georgia's Coast; and for Other Purposes, S. Res. 886, 2018 Leg., Reg. Sess. (Ga. 2018)

Status: Referred to Committee

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Expressing support for coastal Georgia tourism and fisheries and voicing opposition to oil and gas exploration and drilling activities 	<p>Military/Defense:</p> <ul style="list-style-type: none"> “[S]eismic testing and offshore drilling activities may interfere with critical military preparedness, training, and testing activities taking place off the coast of Georgia and at King's Bay Naval Submarine Base and the Naval Undersea Warfare Training Range” <p>Economy/Tourism:</p>

KEY ELEMENTS	PURPOSE/REASONING
	<ul style="list-style-type: none"> • “[F]ishing and tourism industry, which benefits the state economy in terms of 21,000 jobs and over \$1.1 billion of Georgia's gross domestic product” <p>Environment:</p> <ul style="list-style-type: none"> • “[C]oast contains 368,000 acres of saltmarsh that provide essential nursery grounds for fish, shellfish, crab, and other marine life” • “[S]eismic testing and offshore drilling risk the survival of the 400 remaining 19 North Atlantic right whales” <p>Aesthetics:</p> <ul style="list-style-type: none"> • Onshore infrastructure such as pipelines or refineries may compromise the character of coastal landscapes and communities

Florida

[*A Resolution Supporting an Extension of the Current Moratorium on Drilling in the Gulf of Mexico East of the Military Mission Line*](#), H. Res. 319, 2018 Leg., Reg. Sess. (Fla. 2018).

Status: Resolution passed.

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> • “Supports extension of current moratorium on drilling in Gulf of Mexico east of Military Mission Line.” 	<p>Military/Defense:</p> <ul style="list-style-type: none"> • “[D]efense is the State of Florida's fourth largest industry, accounting for more than 775,000 jobs, \$80 billion in economic impact, and 65 percent of the regional economy of Northwest Florida” • Military missions require day and night access to the airspace and seaspace and “United States Department of Defense policy has been to keep the Eastern Gulf of Mexico free from obstruction” and avoid jeopardizing military missions

[*A Memorial to the Congress of the United States, Urging Congress to Oppose President Trump's Executive Order Lifting Moratoria Prohibiting Oil and Natural Gas Drilling Activities Off the Coast of Florida, to Refrain from Supporting or Co-Sponsoring Legislation Authorizing Such Activities, and to Vote in Opposition of Such Legislation*](#), H. Mem. 1247, 2018 Leg., Reg. Sess. (Fla. 2018).

Status: Indefinitely postponed and withdrawn from consideration in in Local, Federal and Veterans Affairs Subcommittee

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Seeks congressional action in opposition to lifting moratorium on oil & natural gas drilling activities off the coast of Florida 	<p>Tourism:</p> <ul style="list-style-type: none"> “[T]ourism is the state's largest industry, generating \$88 billion in spending from more than 112.4 million visitors in 2016, generating 9.5 percent of the state's gross domestic product, and employing 1.4 million people “[A]ny decrease in tourism could devastate a state economy still suffering from a housing market crisis and the global recession” <p>Aesthetic:</p> <ul style="list-style-type: none"> “[O]ffshore oil and gas drilling activities require significant onshore infrastructure, such as pipelines and refineries, which would change the unique character of the state's coastline” <p>Environmental:</p> <ul style="list-style-type: none"> “[T]he technologies surrounding offshore oil and natural gas drilling activities are relatively unchanged and carry the real risk of another oil spill disaster”

California

Relative to new Outer Continental Shelf oil and gas operations in federal waters offshore California, A.J. Res. 29, 2017-18 Assemb., Reg. Sess. (Cal. 2018).

Status: Resolution passed.

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none"> Indicates support for the current federal prohibition on new oil and gas drilling in federal waters offshore California Opposes the Trump administration’s proposal to remove safety and environmental protections related to offshore drilling operations Opposes the Trump administration’s proposed leasing plan that would expose the state to new offshore drilling; urges the Secretary of the Interior to remove California from the proposed leasing plan; and requests that BOEM hold more than one public hearing on the plan in California 	<p>Historical:</p> <ul style="list-style-type: none"> “[T]he 1969 blowout of a well in federal waters” that ignited the “modern-day environmental movement” after the federal water well “sent an estimated three million gallons of crude oil into the Pacific Ocean near the County of Santa Barbara’s coastline” <p>Economy:</p> <ul style="list-style-type: none"> “Iconic coastal and marine waters” and tourist, fishing, and recreational industries.

Oregon

No legislative actions were identified.

Washington

Requesting that Washington state, and all other coastal states, have the opportunity to opt out of the proposed National Outer Continental Shelf Oil and Gas Leasing Program, S.J. Mem. 8017, 65th Leg., Reg. Sess. (Wash. 2018).

Status: Referred to Committee on Energy, Environment & Technology

KEY ELEMENTS	PURPOSE/REASONING
<ul style="list-style-type: none">Seeking removal of Washington offshore waters from proposed leasing program	<p>Economy/Tourism:</p> <ul style="list-style-type: none">State is “heavily reliant on tourism” and the maritime and fisheries are “critical” to communitiesWashington is similar in reliance on tourism to Florida, which has received a waiver <p>Historical:</p> <ul style="list-style-type: none">1988 Nestucca oil barge accident (225,000 gallons of oil polluting 110 miles)

Alaska

No legislative actions were identified.