STATE OF NEW YORK

2572

2019-2020 Regular Sessions

IN ASSEMBLY

January 23, 2019

Introduced by M. of A. ENGLEBRIGHT, D'URSO, THIELE, OTIS, RAIA, ORTIZ, AUBRY, GLICK, DINOWITZ, BRAUNSTEIN, GALEF, JAFFEE, SANTABARBARA, ZEBROWSKI, LAVINE, JEAN-PIERRE, COLTON, CAHILL, ARROYO, WRIGHT, GOTTFRIED, SIMON, PICHARDO, RIVERA, MOSLEY, WILLIAMS, L. ROSENTHAL, ABINANTI, LIFTON, FAHY, WEPRIN, STECK, HYNDMAN, SEAWRIGHT, BUCHWALD, STERN, CARROLL, SOLAGES, HUNTER, PEOPLES-STOKES, EPSTEIN, QUART, LUPARDO, DE LA ROSA, BARRETT, RODRIGUEZ -- Multi-Sponsored by -- M. of A. COOK, CYMBROWITZ, LENTOL -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the transportation corporations law, in relation to prohibiting state authorizations related to certain offshore oil and natural gas production

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs a and b of subdivision 1 of section 23-1101 of the environmental conservation law, as added by chapter 722 of the laws of 1977, are amended to read as follows:

a. The exploration, development and production of gas in state-owned lands, except state park lands**, the marine and coastal district as defined in section 13-0103 of this chapter,** and the lands under the waters of Lake Ontario or along its shoreline; and

b. The exploration, development and production of oil in state-owned lands, except state park lands**, the marine and coastal district as defined in section 13-0103 of this chapter,** and the lands under the waters of Lake Erie and Lake Ontario or along their shorelines.

§ 2. The environmental conservation law is amended by adding a new section 23-1105 to read as follows:

§ 23-1105. Prohibition on state authorizations related to certain offshore oil and natural gas production.

1. Neither the department nor the office of general services shall enter into any new lease or other conveyance, lease renewal, extension

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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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 as defined in section 13-0103 of this chapter, that would result in the increase of oil or natural gas production from federal waters.

2. The department is authorized to establish such rules and regulations as it shall deem necessary to implement this section.

3. For the purposes of this section, the following terms have the following meanings:

a. "Development" means those activities taking place following the discovery of oil and natural gas, including geophysical activity, drilling, platform construction, pipeline construction, and operation of all onshore support facilities that are performed for the purposes of ultimately producing the resources discovered.

b. "Exploration" means the process of searching for oil and natural gas, including any drilling whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas is made and the drilling of any additional delineation well after the discovery that is needed to delineate any reservoir and a lessee to determine whether to proceed with development and production.

c. "Federal waters" means those waters and submerged lands lying seaward to the state waters of New York that appertain to the United States and are subject to federal jurisdiction and control.

d. "New or additional exploration, development, or production of oil or natural gas" includes any activity undertaken to increase the capacity of any pipeline or other infrastructure used to convey oil or natural gas from federal waters.

e. "Production" means those activities that take place after the successful completion of any means for the removal of oil and natural gas, including that removal, field operations, transfer or resources to shore, operation, monitoring, maintenance, and workover drilling. "Producing" means undertaking those activities.

§ 3. Section 80 of the transportation corporations law is amended to read as follows:

§ 80. [~~Definition~~] Definitions. 1. A pipe line corporation is a corporation organized to construct and operate for public use, wholly within or partly without this state, except in the city of New York, lines of pipe for conveying or transporting therein petroleum, gas, liquids or any products or property, or, except in such city, to maintain and operate for public use for which such purposes lines of pipe already constructed.

2. For the purposes of this article, the terms "exploration", "development", "production", and "federal waters" shall be defined as in section 23-1105 of the environmental conservation law.

3. "North Atlantic planning area" means an area of federal waters in the outer continental shelf totaling ninety-two million three hundred twenty thousand acres adjacent to the coastal waters of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey.

§ 4. Section 83 of the transportation corporations law is amended to read as follows:

§ 83. Condemnation of real property. In case such corporation is unable to agree for the purchase of any real property required for the purposes of its incorporation, and its route in the county in which such real property is situated has been finally located, it shall have the right to acquire title thereto by condemnation, but such corporation

shall not locate its route or construct any line of pipe through or under any building, dooryard, lawn, garden or orchard, except by the consent of the owner thereof in writing duly acknowledged, nor through any cemetery or burial ground, nor within one hundred feet of any building except where such line is authorized by public officers to be laid across or upon any public highway**, and shall not construct any line of pipe that supports facilities or infrastructure associated with exploration, development, or production of oil or natural gas in federal waters located in the north Atlantic planning area**. No such corporation shall lay or construct its line of pipe through or under a street in any city, unless it shall first obtain the consent of a majority of the owners of property abutting on that portion of the street in which its pipe line is to be laid. Such pipe line shall be laid with reasonable care and prudence.

§ 5. Section 89 of the transportation corporations law, as amended by chapter 60 of the laws of 1962, is amended to read as follows:

§ 89. Over state lands. The commissioner of general services shall have power to grant to any pipe line corporation any lands belonging to the people of this state which may be required for the purposes of its incorporation on such terms as may be agreed, or such corporation may acquire title thereto by condemnation, except **that no corporation may condemn any lands for the purposes of the construction of any line of pipe that supports facilities or infrastructure associated with exploration, development, or production of oil or natural gas in the north Atlantic planning area, and further excepting** that no pipe line corporation may condemn any canal lands abandoned pursuant to the provisions of article four of the public lands law[~~, constituting chapter fifty of the laws of nineteen hundred nine, as amended,~~] until after they have been sold and conveyed in the manner provided by the public lands law. If any lands owned by any county, city or town be required by such corporation for such purposes, the county, city or town officers having charge of such lands may grant them to the corporation upon terms and compensation agreed upon.

§ 6. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, on invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to be in the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 7. This act shall take effect immediately.