

# 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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1 or modification, that authorizes the exploration for, or the development  
2 and production of, oil or natural gas upon lands owned by the state in  
3 the marine and coastal district as defined in section 13-0103 of this  
4 chapter, that would result in the increase of oil or natural gas  
5 production from federal waters.

6 2. The department is authorized to establish such rules and regu-  
7 lations as it shall deem necessary to implement this section.

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

10 a. "Development" means those activities taking place following the  
11 discovery of oil and natural gas, including geophysical activity, drill-  
12 ing, platform construction, pipeline construction, and operation of all  
13 onshore support facilities that are performed for the purposes of ulti-  
14 mately producing the resources discovered.

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

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

24 d. "New or additional exploration, development, or production of oil  
25 or natural gas" includes any activity undertaken to increase the capaci-  
26 ty of any pipeline or other infrastructure used to convey oil or natural  
27 gas from federal waters.

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

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

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

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

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

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

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

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

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

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

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

43 § 7. This act shall take effect immediately.