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HOUSE BILL NO. 1016

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 28.2-1208 and 67-300 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3.1 of Title 62.1 an article numbered 13, consisting of sections numbered 62.1-44.34:29 and 62.1-44.34:30, relating to the development of offshore energy resources; moratorium on permitting for oil and gas exploration and development in the territorial sea.*

 Patron—Guy

 Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-1208 and 67-300 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3.1 of Title 62.1 an article numbered 13, consisting of sections numbered 62.1-44.34:29 and 62.1-44.34:30, as follows:

§ 28.2-1208. Granting easements in or leasing the beds of certain waters.

A. The Marine Resources Commission may, with the approval of the Attorney General and the Governor, grant easements over or under or lease the beds of the waters of the Commonwealth outside of the Baylor Survey. Every easement or lease executed pursuant to this section shall be for a period not to exceed five years, except in the case of offshore renewable energy leases described in clause (ii), in which case the period shall not exceed 30 years, and shall specify the rent and such other terms deemed expedient and proper. Such easements and leases may include the right to renew the same for an additional period not to exceed five years. Any lease that authorizes grantees or lessees to (i) prospect for and take from the bottoms covered thereby, oil, gas, and other specified minerals and mineral substances; or (ii) generate electrical energy from wave or tidal action, currents, offshore winds, or thermal or salinity gradients, and transmit energy from such sources to shore shall require a royalty. Except for offshore renewable energy leases, purchase payment for any easement granted to a public service corporation, certificated telephone company, interstate natural gas company or provider of cable television or other multichannel video programming service shall be \$100 and shall be for a period of 40 years. However, no easement or lease shall in any way affect or interfere with the rights vouchsafed to the people of the Commonwealth concerning fishing, fowling, and the catching and taking of oysters and other shellfish in and from the leased bottoms or the waters above.

B. All easements granted and leases made pursuant to this section shall be executed for, and in the name and on behalf of, the Commonwealth by the Attorney General and shall be countersigned by the Governor.

C. All oil, gas and other minerals royalties collected from such easements or leases on and after July 1, 2000, shall be paid into the state treasury to the credit of the Marine Habitat and Waterways Improvement Fund. All royalties collected as a result of the generation or transmission of electrical or compressed air energy from offshore renewable sources including wave or tidal action, currents, offshore winds, and thermal or salinity gradients shall be paid into the state treasury and appropriated to the Virginia Coastal Energy Research Consortium established pursuant to § 67-600.

D. Prior to December 1 of each year, the Commissioner and the Attorney General shall make reports to the General Assembly on all easements and leases executed pursuant to this section during the preceding 12 months.

E. The Commission shall, in cooperation with the Division of Geology and Mineral Resources of the Department of Mines, Minerals and Energy (*the Department*) and with the assistance of affected state agencies, departments and institutions, including the Virginia Coastal Energy Research Consortium, maintain a State Subaqueous Minerals and Coastal Energy Management Plan that shall supplement the State Minerals Management Plan set forth in § 2.2-1157 and the Virginia Energy Plan (§ 67-200 et seq.). The State Subaqueous Minerals and Coastal Energy Management Plan shall include provisions for (i) the holding of public hearings, (ii) public advertising for competitive bids or proposals for mineral and renewable energy leasing and extraction activities, (iii) preparation of environmental impact reports to be reviewed by the appropriate agency of the Commonwealth, and (iv) review and approval of leases by the Attorney General and the Governor as required by subsection A. The environmental impact reports shall address, but not be limited to:

1. The environmental impact of the proposed activity;
2. Any adverse environmental effects that cannot be avoided if the proposed activity is undertaken;
3. Measures proposed to minimize the impact of the proposed activity;

INTRODUCED

HB1016

59 4. Any alternative to the proposed activity; and

60 5. Any irreversible environmental changes which would be involved in the proposed activity.

61 For the purposes of subdivision 4 of this subsection, the report shall contain all alternatives
62 considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives,
63 it shall state why alternatives were not considered.

64 *F. Notwithstanding any other provision of law, including any contrary provision of this section,
65 neither the Commission nor the Department shall grant any lease, easement, or permit to (i) authorize
66 the construction of any infrastructure related to oil or natural gas, including pipelines, gathering
67 systems, processing facilities, or storage facilities, on the beds of any waters of the Commonwealth or
68 (ii) allow exploration or drilling for, or the development, extraction, or production of, gas or oil from
69 the beds of any waters of the Commonwealth.*

70 *Article 13.*
71 *Oil and Gas Development Moratorium.*

72 **§ 62.1-44.34:29. Definitions.**

73 *As used in this article, unless the context requires a different meaning:*

74 *"Development" means geophysical activity, drilling, platform construction, pipeline construction,
75 operation of onshore support facilities, and any other activities undertaken following the discovery of oil
76 or gas the principal purpose of which is to prepare for the ultimate production of the oil or gas.*

77 *"Exploration" means any activity the principal purpose of which is to define, characterize, or
78 evaluate oil or gas or sulfur resources for possible commercial development or production.*

79 *"Gas" means all natural gas and all other fluid hydrocarbons not defined as oil in this section.*

80 *"Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are
81 produced in liquid form by ordinary production methods.*

82 *"Production" means any activity the principal purpose of which is to engage in, monitor, or conduct
83 operations or maintenance related to the active extraction and transportation of oil or gas from tidal
84 submerged lands.*

85 *"Structure" means any construction works, including but not limited to derricks, pipelines, lines for
86 the transmission and distribution of electricity, telephone lines, wharves, piers, slips, warehouses, and
87 units designed to act as groins, jetties, seawalls, breakwaters, or bulkheads.*

88 *"Territorial sea" means the waters within the belt, three nautical miles wide, that is adjacent to
89 Virginia's coast and seaward of the mean low-water mark.*

90 **§ 62.1-44.34:30. Exploration, development, and production of oil or gas prohibited.**

91 *A. Notwithstanding any other provision of law, any form of leasing submerged and submersible lands
92 within the limits of the territorial sea for purposes of exploration, development, or production of oil or
93 gas is prohibited.*

94 *B. No agency of the Commonwealth shall lease any of the submerged and submersible lands within
95 the limits of the territorial sea for:*

96 *1. The exploration, development, or production of oil or gas; or*

97 *2. Activities in furtherance of the exploration, development, or production of oil or gas.*

98 *C. No agency of the Commonwealth shall permit or authorize the construction or location of a
99 structure upon, over, or under any submerged and submersible lands within the limits of the territorial
100 sea.*

101 *D. The provisions of subsections A, B, and C do not apply to exploration for scientific or academic
102 research purposes or to geologic survey activities of any agency of the Commonwealth.*

103 **§ 67-300. Offshore energy resources.**

104 *A. In recognition of the need for energy independence, it shall be the policy of the Commonwealth
105 to support federal efforts to:*

106 *1. Determine the extent of oil and natural gas resources 50 miles or more off the Atlantic shoreline,
107 including appropriate federal funding for such an investigation; and*

108 *2. Permit the production and development of oil and natural gas resources 50 miles or more off the
109 Atlantic shoreline taking into account the impact on affected localities, the armed forces of the United
110 States of America, and the mid-Atlantic regional spaceport.*

111 *B. The policy of the Commonwealth shall further support the inclusion of the Atlantic Planning
112 Areas in the Minerals Management Service's draft environmental impact statement with respect to oil
113 and natural gas exploration, production, and development 50 miles or more off the Atlantic shoreline.*

114 *C. It shall be the policy of the Commonwealth to support federal efforts to examine the feasibility of
115 offshore wind energy being utilized in an environmentally responsible fashion.*