

AMENDED IN SENATE JULY 24, 2009

CALIFORNIA LEGISLATURE—2009—10 FOURTH EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 23

Introduced by Assembly Member Evans DeVore
(Principal coauthor: Senator Hollingsworth)

July 2, 2009

~~An act relating to the Budget Act of 2009.~~ *An act to add and repeal Sections 6245 and 6246 of the Public Resources Code, relating to oil and gas leases.*

LEGISLATIVE COUNSEL'S DIGEST

AB 23, as amended, ~~Evans DeVore. Budget Act of 2009.~~ *Oil and gas leases: state waters.*

(1) Existing law authorizes the State Lands Commission to enter into a lease for the extraction of oil or gas from state-owned tide and submerged lands in the California Coastal Sanctuary if the commission determines that those oil and gas deposits are being drained by means of producing wells upon adjacent federal lands and if the lease is in the best interests of the state.

This bill would create the Interim Resources Management Board, consisting of the Secretary of the Natural Resources Agency, the Secretary for Environmental Protection, and the Controller. The bill would authorize the board to consider a lease, lease application, or revised lease application filed. The bill would authorize the board to approve that lease if specified terms and conditions are met.

The bill would provide for the repeal of these provisions on January 1, 2011. The bill would set forth related declarations and findings.

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for

that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on July 1, 2009.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.~~

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Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*
3 (a) *Since 1994, the State Lands Commission has been prohibited*
4 *by the California Coastal Sanctuary Act of 1994 (Chapter 3.4*
5 *(commencing with Section 6240) of Part 1 of Division 6 of the*
6 *Public Resources Code) from granting any new oil or gas leases*
7 *on state-owned tide and submerged lands, unless the state's oil or*
8 *gas resources are being drained from producing wells on adjacent*
9 *federal lands and the commission determines that a lease is in the*
10 *best interests of the state.*
11 (b) *Since 1994, no application for a lease has been granted*
12 *under this exception by the State Lands Commission.*
13 (c) *In the current fiscal emergency, it is in the public interest*
14 *to consider an application considered and rejected by the*
15 *commission prior to the effective date of this act, pursuant to*
16 *Section 6244 of the Public Resources Code, from an operator with*
17 *existing offshore drilling platforms on federal lands and with*
18 *existing and operating infrastructure that seeks to access state*
19 *offshore oil or gas reserves for a limited period.*

1 (d) *The provisions of this act are necessary for the promotion*
2 *of the public interest and are of statewide concern.*

3 SEC. 2. *Section 6245 is added to the Public Resources Code,*
4 *to read:*

5 6245. (a) *The Interim Resources Management Board is hereby*
6 *created for the limited purpose of considering an oil or gas lease*
7 *application meeting the criteria set forth in Section 6246.*

8 (b) *The members of the board shall be the Secretary of the*
9 *Natural Resources Agency, the Secretary for Environmental*
10 *Protection, and the Controller. The Secretary of the Natural*
11 *Resources Agency shall be the chairperson of the board.*

12 (c) *The board shall hold at least one public hearing when*
13 *considering an oil or gas lease application.*

14 (d) *If a majority of the members of the board determine pursuant*
15 *to Section 6246 that an oil or gas lease be entered into, the*
16 *chairperson of the board shall execute pursuant to Section 6246*
17 *the lease on behalf of the state. Thereafter, the terms and conditions*
18 *of the lease shall be administered by the commission.*

19 (e) *This section shall remain in effect only until January 1, 2011,*
20 *and as of that date is repealed, unless a later enacted statute, that*
21 *is enacted before January 1, 2011, deletes or extends that date.*

22 SEC. 3. *Section 6246 is added to the Public Resources Code,*
23 *to read:*

24 6246. (a) *Notwithstanding Section 6244, within 30 days after*
25 *the effective date of this section, the Interim Resources*
26 *Management Board shall meet in accordance with the*
27 *Bagley-Kneene Open Meeting Act for the purpose of considering*
28 *a lease, lease application, or revised lease application, including*
29 *the terms and conditions, filed with the commission pursuant to*
30 *Section 6244 and that meets all of the following criteria:*

31 (1) *The lease, lease application, or revised lease application*
32 *was considered and rejected by the commission prior to the*
33 *effective date of this section, pursuant to section 6244.*

34 (2) *The record before the commission demonstrates that state*
35 *oil or gas deposits are being drained by means of producing wells*
36 *upon adjacent federal lands.*

37 (3) *The lessee has an existing offshore platform on adjacent*
38 *federal lands from which the state oil or gas reserves will be*
39 *accessed.*

1 (4) The lessee has existing and operating pipelines and other
2 infrastructure to transport and process the oil or gas.

3 (5) The Board determines that the lease is in the best interest
4 of the state.

5 (b) The Chairprson of the Interim Resources Management Board
6 may enter into a lease or leases on behalf of the State of California
7 if the lease or leases contain the following conditions that are
8 enforceable by the Attorney General:

9 (1) The lease has a fixed termination date that is 14 years from
10 the effective date of the lease.

11 (2) The lease requires the lessee to make a single prepaid royalty
12 payment to the State Treasury in the total amount of one hundred
13 million dollars (\$100,000,000) for the leases or leases considered
14 and rejected by the commission prior to the effective date of this
15 section, pursuant to Section 6244.

16 (3) The lease shall provide, at a minimum, the rental fee and
17 royalty payments as specified in the lease considered and rejected
18 by the commission prior to the effective date of this section,
19 pursuant to Section 6244.

20 (4) The lessee is required to avoid, reduce, or offset all direct
21 greenhouse gas emissions from project operations under the lease.

22 (5) Upon expiration of the lease, the lessee shall terminate all
23 oil and gas production operations offshore California, if any, and
24 remove all related onshore processing facilities, if any, that are
25 owned, controlled, or operated by the lessee at the time the lessee
26 accepted the lease, and shall clean up, restore, and donate not
27 less than 3,900 acres of land for public use and conservation,
28 including land on which the onshore processing facilities were
29 located.

30 (6) The lessee shall use all feasible efforts to decommission or
31 remove four outer continental shelf federal platforms and provide
32 funds, in an amount and manner to be determined by the Interim
33 Resources Management Board, in an escrow account, letter of
34 credit, or equivalent instrument, to be used to address any adverse
35 environmental effects of offshore oil drilling from the four
36 platforms, or for decommissioning or removal of the platforms, if
37 the platforms are not decommissioned or removed due to
38 circumstances beyond the control of the lessee.

39 (7) The terms and conditions of any agreement related to the
40 lease, lease application, or revised lease application identified in

1 *subdivision (a) between the lessee and a nongovernmental third*
2 *party shall collectively constitute a condition of any lease. The*
3 *lessee shall provide a copy of any agreement to the Interim*
4 *Resources Management Board as soon as feasible and the*
5 *agreement shall be made public in a conspicuous location on the*
6 *Natural Resources Agency's Internet Web site at least 30 days*
7 *prior to the reconsideration of any lease pursuant to subdivision*
8 *(a).*

9 *(8) The lease shall provide, without limitation, that the Attorney*
10 *General shall enforce the terms of the lease.*

11 *(c) The lease shall contain all other terms and conditions agreed*
12 *to by the lessee in a lease or lease application considered and*
13 *rejected by the commission prior to the effective date of this section,*
14 *pursuant to Section 6244, that are not in conflict with this section.*
15 *Nothing in this section precludes the board from requiring lease*
16 *terms that are more protective of the environment or will produce*
17 *greater revenue to the state and that are not in conflict with this*
18 *act.*

19 *(d) Any action to challenge Section 6245 or this section may*
20 *only be filed and served within 60 days of the effective date of*
21 *those sections.*

22 *(e) Except as provided in paragraph (8) of subdivision (b), any*
23 *challenge by a person to a lease executed pursuant to this section*
24 *may only be filed and served within 60 days following execution*
25 *of the lease and notification of its execution. The complaint or*
26 *petition shall also be served within the 60-day period on the lessee*
27 *as a real party in interest. Notification of the execution of the lease*
28 *shall be posted on the Natural Resources Agency's Internet Web*
29 *site and through a press release issued by the Natural Resources*
30 *Agency.*

31 *(f) This section shall remain in effect only until January 1, 2011,*
32 *and as of that date is repealed, unless a later enacted statute, that*
33 *is enacted before January 1, 2011, deletes or extends that date.*

34 *SEC. 4. This act addresses the fiscal emergency declared by*
35 *the Governor by proclamation on July 1, 2009, pursuant to*
36 *subdivision (f) of Section 10 of Article IV of the California*
37 *Constitution.*

38 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
39 ~~changes relating to the Budget Act of 2009.~~

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