

## Deepwater — A Floridian Game-Changer?

*Law360, New York (May 18, 2010)* -- While oil from the explosion of the Deepwater Horizon oil rig has yet to reach Florida's shores, the disaster has already caused political leaders to consider a special legislative session. On May 6, 2010, Gov. Charlie Crist told reporters that he was considering calling the legislature into session to propose adding a ban on offshore drilling to the Florida Constitution. State Chief Financial Officer Alex Sink, the Democratic candidate for governor, indicated her support for the concept of a constitutional ban, saying that the timing may now be right.

Gov. Crist elaborated on the proposal a week later at the regular meeting of the governor and Cabinet, when he announced that he would call the legislature into a special session, probably during the week of May 24, in response to the Gulf of Mexico oil spill. The governor said he wanted the legislature to address a constitutional amendment to ban offshore drilling and to enact legislation in support of alternative energy sources.

Both of the leading candidates for governor, Democratic CFO Sink and Republican Attorney General Bill McCollum, indicated support for a constitutional amendment, while the other Cabinet member, term-limited Republican Agriculture Commissioner Charles Bronson, said, "I think we ought to know all the facts before we overreact."

The proposed constitutional amendment would ban oil drilling in coastal waters within 10.6 miles of the shoreline. In addition, the governor would seek legislative approval for incentives to support renewable energy projects, such as a \$1 a month surcharge on electric bills that would finance construction of solar power plants. The governor's efforts in behalf of renewables in previous legislative sessions have not been successful.

Gov. Crist added that the special session would not be limited to a drilling ban. "I want to talk about wind, nuclear, solar, natural gas, and other alternative means to provide energy to our people. Whether it be wind, solar, natural gas, nuclear — what have you — to wean ourselves off this dirty stuff is just the right thing to do," he said.

Efforts by drilling advocates to lift the state's current ban on offshore drilling were also unsuccessful in the 2010 regular session of the legislature. However, soon after the extent of the Deepwater Horizon disaster became known, the legislature's two most prominent advocates of offshore drilling declared that authorization of offshore drilling will not be considered in upcoming sessions.

Rep. Dean Cannon, R-Orlando, who will become Speaker of the House after the November 2010 elections assuming the Republicans maintain their majority, described the disaster as a "game changer" and said that the question of allowing offshore drilling was "permanently tabled." His Senate counterpart, Senate President-designate Mike Haridopolos, R-Melbourne, said, "I want to know what happened, because I was told there were redundancies ... We were assured that there would not be major problems like this. I'm not willing to risk Florida's energy future, let alone our economic future, to something that is not absolutely proven."

Many legislators expressed opposition either to the concept of a constitutional ban on drilling or to the timing of the proposed special session. House Speaker Larry Cretul, R-Ocala, said, "Our state resources and leadership should be focused on solving the real problem at hand, not fighting political campaigns at taxpayers' expense. Drilling in Florida waters is currently banned and will remain so. There is no need for taxpayers to pay for a special session just to provide a platform for politicians to score political points."

Senate President Jeff Atwater, R-North Palm Beach, who generally supports renewable energy and opposes drilling, also objected to the proposed session, saying, "Before we enter a special session, which could cost taxpayers upwards of \$40,000 daily, we must find common ground with our partners in the governor's office and the Florida House."

A Palm Beach Post survey of 18 House members who represent Gulf coast districts found that 14 of the representatives opposed a special session, even though they might ultimately support a constitutional ban on drilling. Rep. Ron Saunders, D-Key West, who is expected to become House Minority Leader in the 2010-2012 biennium, said, "I don't see the urgency." Rep. Leonard Bembry, D-Madison, a drilling opponent, said, "We haven't even stopped the oil yet. We don't have all the facts yet."

Other Democrats supported the idea. Rep. Keith Fitzgerald, D-Sarasota, said, "This is our opportunity. This is a good time for the people to make the decision, while the costs and the dangers are in the forefront of people's minds."

On May 11, 2010, Gov. Crist also issued an executive order establishing the Gulf Oil Spill Economic Recovery Task Force to coordinate the state's efforts to help affected businesses and industries recover from the impact of the Gulf of Mexico oil spill.

Governmental agencies represented on the task force will include the Office of Trade, Tourism and Economic Development, the Department of Children and Families, the Division of Emergency Management, the Fish and Wildlife Commission, the Agency for Workforce Innovation, the Office of Policy and Budget, and the Department of Revenue. The task force will also include representatives of Visit Florida, the Small Business Administration, the Florida League of Cities, the Florida Association of Counties, a local chamber of commerce, the Florida Restaurant and Lodging Association, the National Association of Charterboat Operators, and the seafood industry.

Gov. Crist and Attorney General McCollum also announced that they were assembling an outside legal team to assist in the state's efforts to determine the financial impact of the oil spill and recover money from responsible parties. The team will be led by two former attorneys general, Republican Jim Smith and Democrat Bob Butterworth.

Gov. Crist said, "I couldn't think of better people to serve in this role, to pick a great legal team to represent Florida, to fight for Florida and look out for our interests, and to make sure Florida is protected, first and foremost."

The attorney general had previously raised the possibility of lawsuits against the well owner, BP PLC, if the company does not take financial responsibility, saying, "We recognize that BP has stated publicly that it will live up to its obligation to pay all claims arising from this environmental and economic disaster. We hope that BP will. But we would be remiss in our responsibilities if we did not consider the possibility that enforcement or litigation efforts will be required in the future." However, when he announced the creation of the legal team he clarified that the state does not have any immediate intention of suing the oil company.

The most immediate impacts of the oil spill appear to be on the tourism industry in the Florida Panhandle, which does most of its business between Memorial Day and Labor Day. According to Carol Dover, president of the Florida Restaurant and Lodging Association, occupancy rates have declined by 30 percent in the stretch of coast from

Panama City to Pensacola. Ms. Dover predicted that occupancy rates for the Memorial Day weekend, which usually exceed 90 percent, could drop below 20 percent at many panhandle hotels.

On May 12, in response to a request from Visit Florida, Gov. Crist requested that the well owner, BP PLC, provide the state with \$25 million for a national and international media campaign, in addition to the \$25 million in recovery funding that the company already gave the state. "We need to advertise, get the message out that our beaches are clean, our water is clean, the fish are biting, please come to the panhandle, it's beautiful," the governor said. He also requested an additional \$10 million for marketing by coastal counties throughout the summer months.

After meeting with the governor on May 17, Tony Hayward, CEO of BP PLC, announced that the company would give the state the additional funding for tourism advertising, and would also provide \$15 million each to tourism authorities in Louisiana, Mississippi and Alabama.

--By Leonard E. Schulte, Foley & Lardner LLP

*Leonard Schulte is a public affairs director with Foley & Lardner in the firm's Tallahassee, Fla., office. He is also a member of the firm's government and public policy practice and insurance industry team and can be reached at [lschulte@foley.com](mailto:lschulte@foley.com).*

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