

# States Rights Fully Protected in HR 2231, Vote NO on Grayson Amendment

*Amendment Could Preempt Private Property Rights & Harm Economy*

June 28, 2013

Dear Colleague,

Today, the House will vote on H.R. 2231, the Offshore Energy and Jobs Act, bi-partisan legislation that would expand U.S. offshore energy production in order to create over a million new American jobs, lower energy prices, grow our economy and strengthen national security.

H.R. 2231 is similar to legislation passed last Congress and fully upholds existing states' rights within their boundaries and offshore areas. The bill is focused on activity in federal waters and respects states' abilities to control and govern their waters. States' authority is in no way limited or affected by this bill. Existing federal law protecting states' rights over its waters and boundaries are not changed or amended.

The Grayson amendment is asserted as a simple restatement of these states' rights – though its sponsor admits the amendment is not an restatement of existing law but of the “principle” – which is where the amendment raises several serious concerns that leads me to oppose its adoption in the form its written. As drafted, the Grayson amendment purportedly reflects current law with regards to management of natural resources, but it could effectively usurp the individual private property rights of individuals in favor of state control. The amendment reads that it is “the right and power of each State to prohibit management, leasing, developing,...the natural resources within such lands, within its boundaries.” States have the right to regulate natural resources, but not outright **prohibit** development of private property.

In the United States, unlike much of the remainder of the world, natural resources are owned both by the Government and private individuals. This right to private property is one of our foundations in the Constitution. Natural resources property rights include the right to own mineral (oil, gas, minerals) rights, timber rights, and water rights, as a few examples. Congress endorsing a policy that gives the state sole power to prohibit the development of those rights could be construed as a massive taking in violation of the Constitution – the government can't take property without compensation. The courts have held, including this week on a Florida case at the Supreme Court, that the State taking property or impinging on its fair use requires fair compensation. Even if a state may not be inclined to fully exercise such authority granted by this amendment should it become law, simple passage could open the door to lawsuits challenging private property rights. It is for these reasons that I urge a NO vote on the Grayson amendment.

At a time when our nation's economy continues to struggle, we should avoid erecting new barriers to economic activity and private freedoms. While the amendment sponsor's arguments

are well intentioned, as drafted it could have serious unintended consequences that could open the door to lawsuits, undermine private property, inhibit job creation and stifle resource development on private and public lands. Again, the amendment is unnecessary as H.R. 2231 fully upholds, and does not change or diminish or impinge, existing states' rights over their lands and waters. Therefore, I urge a NO vote on the Grayson amendment.

If you have any questions, please have your staff contact Tim Charters or Kate MacGregor with the Natural Resources Committee at 5-9297.

Sincerely,

Doc Hastings  
Chairman  
House Natural Resources Committee