

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1309 Economic Recovery from the Deepwater Horizon Disaster

SPONSOR(S): Coley and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/CS/SB 248

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N, As CS	Tecler	Kruse
2) Finance & Tax Committee	21 Y, 0 N, As CS	Wilson	Langston
3) Economic Affairs Committee			

SUMMARY ANALYSIS

On April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers. Over the next three months, an estimated 4.9 million barrels of crude oil were discharged into the Gulf of Mexico. The oil spill negatively impacted the coastal counties and communities in Florida's panhandle, damaging pristine beaches and suppressing economic activity. The bill takes several steps toward mitigating the economic impacts of the oil spill and boosting recovery efforts in northwest Florida.

The bill extends the Rural Area of Critical Economic Concern program to Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla and Walton counties for three years. Further, the bill provides that the designated counties receive priority assignment for the state's Rural Economic Development Initiative (REDI) allowing the Governor, through REDI, to waive criteria and requirements for economic development incentives for any of these counties.

For fiscal year 2011-2012 a nonrecurring appropriation of \$10 million from General Revenue is provided to OTTED to assist in diversifying the regional economy in Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton counties. The funds will be used to recruit and expand targeted industries and businesses to the region.

Provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Issue Background

Deepwater Horizon Explosion

At approximately 10:00 PM on April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers.¹ At the time of the explosion, the Deepwater Horizon rig was anchored approximately 45 miles southeast of the Louisiana coast. Drilling operations were being conducted at a sea depth of 5,000 feet and had progressed more than 18,000 feet below the sea floor where commercial oil deposits were discovered.

On April 22, 2010, the Deepwater Horizon rig capsized and sank. Two days later, underwater cameras detected crude oil and natural gas leaking from the surface riser pipes attached to the well-head safety device known as the blowout preventer. The blowout preventer malfunctioned and failed to shut off flow out of the well-head. Over the next three months, an estimated 4.9 million barrels of crude oil was discharged into the Gulf of Mexico.²

As a result of the spreading oil spill in the Gulf of Mexico, a state of emergency was declared by the governor on April 30, 2010, and included Escambia, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties.³ The initial executive order was amended on May 3, 2010, to include Franklin, Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, and Sarasota counties.⁴ Subsequently Charlotte, Lee, Collier, Monroe, Dade, Broward, and Palm Beach counties were added to the declaration.⁵

BP PLC was the operator of Deepwater Horizon and has recognized its role as the principal responsible party for the disaster. BP has pledged to fully cover the cost of response, recovery, and damages. As of March 11, 2011, BP has paid or invested more than \$1.6 billion in Florida.⁶ However, the total clean up and recovery costs have yet to be determined.

BP Payments and Investments in Florida	
Through March 10, 2011	
Florida Government Payments	\$72,300,000
Total Payments to Individuals and Businesses	\$1,487,200,000
• Gulf Coast Claims Facility ^a	\$81,600,000
• BP Claims Process ^b	\$1,405,600,000
Vessels of Opportunity Payments ^c	\$73,100,000
Tourism Payments	\$32,000,000
NRDA Payments	\$8,000,000
Research Payments	\$10,000,000
Behavioral Health Payments	\$3,000,000
Contributions	\$300,000
Total	\$1,685,900,000
(a) through 8/22/2010 (b) through 3/9/2011 (c) through 2/24/2011	

¹ Rig Disaster: Timeline, *Wall Street Journal*,

<http://online.wsj.com/article/SB10001424052748704302304575213883555525958.html>, (last visited 03/27/2011).

² Assessment of Flow Rate Estimates for the Deepwater Horizon / Macondo Well Oil Spill, National Incident Command and the United States Department of the Interior, <http://on.doi.gov/hZU3Xf>, (last visited 03/27/2011)

³ Fla. Exec. Order No. 10-99, April 30, 2010.

⁴ Fla. Exec. Order No. 10-100, May 3, 2010.

⁵ Fla. Exec. Order No. 10-106, May 20, 2010.

⁶ BP Payments and Investments in Florida, March 10, 2011,

<http://www.floridagulfresponse.com/go/doc/3059/897475/BP-Payments-and-Investments-in-Florida>, (last visited 03/27/2011).

Civil Penalties and Federal Law

On December 15, 2010, the federal government filed suit against BP and 8 other companies asking that the companies be held liable without limitation under the Oil Pollution Act (“OPA”) for all removal costs and damages caused by the spill, including damages to natural resources.⁷ The lawsuit also seeks civil penalties under the Clean Water Act (“CWA”).

Under the OPA, liability for damages from an offshore facility spill is capped at \$75 million per incident, except in limited circumstances. Responsible parties are liable for clean-up costs and certain damages resulting from the spill. Damages as defined by OPA include several categories of economic damages as well as damages associated with injuries to natural resources.

Civil penalties recovered under CWA must be deposited into the Oil Spill Liability Trust Fund. The Fund was created to ensure that there are available funds for clean-up, response, and restoration efforts for future oil spills. As a contingency, the Fund may be used to pay compensation for removal costs and damages if a responsible party fails to do so and to pay compensation in excess of the responsible parties’ liability.⁸

In the long-term recovery report issued last September, the Secretary of the Navy recommended that Congress direct a significant portion of any civil penalties collected to the areas impacted by the Deepwater Horizon oil spill.⁹ A certain portion of the directed funds would be placed in a recovery fund while the remaining amount would go directly to the impacted states. Under the proposal, a council would be created to distribute the recovery funds. However, Congress has not indicated how funds collected through civil penalties will be appropriated.

Economic Development in Northwest Florida

Prior to the Deepwater Horizon oil spill, economic diversification was a priority in the Northwest Florida region. While tourism and defense have a strong presence in the area, further diversification into other industry sectors could potentially bring additional high-wage jobs to the region. Currently, the average annual wage of all industries in the eight coastal counties impacted by the oil spill is lower than the statewide average annual wage of \$40,973.¹⁰ The impacted counties also tend to have lower graduation rates, a low percentage of individuals with college degrees, and spotty access to broadband and other high-tech services.¹¹ Northwest Florida is also home to many rural counties. The state offers several initiatives to assist rural and small counties, including the Rural Economic Development Initiative and Rural Areas of Critical Economic Concern.

Rural Incentive Programs

Currently, Walton, Gulf, and Franklin counties are designated as rural counties and are eligible to participate in the state’s Rural Economic Development Initiative (“REDI”).¹² REDI was created by the Florida Legislature to encourage and align critical state agency participation and investment around important rural issues and opportunities.¹³ In order to strengthen the regional wage and tax base in rural regions of the state, the Initiative facilitates the location and expansion of major economic development projects in rural communities. The initiative is operated by the Office of Tourism, Trade, and Economic Development (“OTTED”) and involves the participation of all state and regional agencies to assist in meeting the needs of the rural areas.

⁷ Attorney General Eric Holder Announces Civil Lawsuit Against Nine Defendants for Deepwater Horizon Oil Spill, United States Department of Justice, December 15, 2010, <http://www.justice.gov/opa/pr/2010/December/10-ag-1442.html>, (last visited 03/27/2011).

⁸ America’s Gulf Coast: A Long Term Recovery Plan After the Deepwater Horizon Oil Spill, September 2010, <http://www.restorethegulf.gov/sites/default/files/documents/pdf/gulf-recovery-sep-2010.pdf>, (last visited 03/27/2011).

⁹ America’s Gulf Coast: A Long Term Recovery Plan After the Deepwater Horizon Oil Spill.

¹⁰ Florida County Profiles, The Office of Economic and Demographic Research, <http://edr.state.fl.us/Content/area-profiles/county/index.cfm>, (last visited 03/27/2011).

¹¹ Florida County Profiles, The Office of Economic and Demographic Research, <http://edr.state.fl.us/Content/area-profiles/county/index.cfm>, (last visited 3/27/2011)

¹² Thirty-two Florida counties are presently categorized as “rural” pursuant s. 288.0656, F.S.

¹³ Section 288.0656, F.S.

Within REDI, the Governor may designate up to three Rural Areas of Critical Economic Concern (“RACEC”).¹⁴ Most rural counties have been categorized into one of three RACECs: the North Central, the Northwest, and the South Central. RACECs are defined by OTTED based on measures of economic interdependence among the rural counties in each of the three geographic regions. A RACEC designation establishes each region as a priority assignment for REDI agencies and allows the Governor, through REDI, to waive criteria for certain economic development incentives including, but not limited to: the Qualified Target Industry Tax Refund Program, the Quick Response Training Program, the Rural Job Tax Credit Program and certain transportation projects.¹⁵ RACEC counties in each region also partner in creating catalyst sites that will attract key businesses. Franklin and Gulf counties are part of the Northwest RACEC.¹⁶

Florida’s Great Northwest, Inc.

Florida’s Great Northwest, Inc. is a non-profit regional economic development organization representing 16 counties in Northwest Florida. The organization was founded in 2000 and is comprised of local economic development groups, workforce development boards, educational institutions and private business. The organization builds strategic alliances with its public and private partners to facilitate the development of key industry clusters that could bring high paying jobs to the region.¹⁷

Changes Made By the Bill

In order to mitigate the economic impacts of the oil spill and boost recovery efforts in northwest Florida, the bill extends the RACEC program to certain counties affected by the oil spill. Second, the bill authorizes a recurring appropriation of funds for the purpose of creating a regional economic development program.

Designated Rural Area of Critical Economic Concern

The bill designates the counties of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, Walton, and municipalities within those counties, as a RACEC. Under current law, Bay, Escambia, Okaloosa, Santa Rosa, Wakulla and Walton¹⁸ counties do not qualify for the RACEC program. The changes proposed in this bill are focused on and limited to making all eight counties a priority assignment for REDI and allowing the Governor, through REDI, to waive criteria and requirements for economic development incentives in any one of these counties. The designated RACEC will receive priority status for the following incentives and the criteria for these incentives could be waived in full or in part:

- **The Qualified Target Industry Tax Refund Program**
The bill provides that a qualified target business relocating to the designated RACEC from another state may receive a tax refund of up to \$6,000 for each newly created job. Current law restricts the \$6,000 refund to qualified target businesses in a rural community or an enterprise zone.¹⁹ Further, a qualified targeted business may receive an additional \$2,000 per job if the business falls under a designated high impact sector or increases exports from a state port by at least 10 percent in value or tonnage.²⁰ The bill also authorizes the Governor to waive the program’s wage, job creation, and local match requirements.
- **“Road Fund”**²¹
The road fund is an incentive tool designed to alleviate transportation problems that adversely impact a business’s decision to relocate or expand operations in a certain community. Grants are provided directly to local governments which then contract and build transportation projects.

¹⁴ Section 288.0656(7)(a-c), F.S.

¹⁵ Section 288.0656(7)(a), F.S.

¹⁶ The N.W. RACEC includes Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, and Washington counties, and the City of Freeport in Walton County.

¹⁷ <http://www.floridasgreatnorthwest.com/WhatWeDo/visionmission.html>, (last visited 03/27/2011).

¹⁸ The city of Freeport is part of the Northwest RACEC.

¹⁹ Section 288.106(3)(b)1., F.S.

²⁰ Section 288.106(3)(b)4., F.S.

²¹ Contracts for transportation projects under s. 288.063, F.S.

The Governor, through OTTED and REDI, has wide-latitude to waive program requirements in areas of high unemployment and economic distress. Counties in the designated RACEC may qualify for this exception.

- Workforce Development
Grants provided through the Quick Response Training Program and the Incumbent Worker Training Program will be prioritized to the counties in the designated RACEC.²²
- Rural Infrastructure Fund²³
The fund facilitates the planning, preparing, and financing of infrastructure projects that encourage job creation, capital investment, and economic diversification. If funding is available, the RACEC designation may allow the oil spill affected counties to receive grants of up to \$300,000 or up to 30 percent of the total cost of a qualified infrastructure project.
- Rural Development Revolving Loan Fund²⁴
The fund provides loan and loan guarantees that may be used to finance initiatives that address employment or further development of a local economy. Counties in the designated RACEC will have access to this fund.

The RACEC designation may also qualify the counties for the Tourist-orientated Directional Sign Program and allow such counties to access grants under the Underserved Arts Community Assistance program.

The bill provides that this temporary designation will expire on June 30, 2014. Further, this designation will provide an exemption for the execution of a memorandum of agreement between OTTED and the local governments within the RACEC. Because Franklin and Gulf counties are part of the Northwest RACEC, both counties will continue to have access to RACEC waivers after the 2014 expiration date.

Regional Economic Development Program

For fiscal year 2011-2012 a nonrecurring appropriation of \$10 million is authorized from General Revenue to OTTED to assist in diversifying the regional economy in Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton counties. The funds will be used to recruit and expand targeted industries and businesses to the region. The funds may not be used to pay for administrative costs.

The bill authorizes OTTED to consult with local educational entities, economic development organizations, local governments, and Florida's Great Northwest, Inc. in order to develop a framework and strategy for the use of funds and to consider local support from these entities prior to approval for any project. These projects are directed to promote research and development, commercialization of research, economic diversification, and job creation. The criteria for the expenditure of funds, at a minimum will require local match, job creation, return on investment, or capital investment and expedited permitting where appropriate.

The funding will be used on a case-by-case basis for:

- Universities and other institutions to conduct research for existing and prospective businesses, particularly in Science, Technology, Engineering and Math disciplines, as well as providing funding for the commercialization of research that will result in the creation of new jobs.
- Direct recruiting of new businesses to Northwest Florida, including prospect visits, the development of economic development information and materials needed to compete with other states, and for events that showcase the region to prospective industry sectors.

²² Section 288.047, F.S., and Section 445.003, F.S.

²³ Section 288.0655, F.S.

²⁴ Section 288.065, F.S.

- Supplementing existing state and local incentives for the direct recruitment, and expansion of companies in Northwest Florida, including funding for bridging the gap between incentives available in Florida and those available in competing jurisdictions.
- Matching grant opportunities for job creation, job training, or university research needed to develop new products.

These parameters expire on June 30, 2014.

The bill has an effective date of July 1, 2011.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.0656, F.S., designating certain counties as a Rural Area of Critical Economic Concern and providing for certain economic incentives.

Section 2: Provides a nonrecurring \$10 million appropriation in fiscal year 2011-2012 to OTTED to assist in diversifying the regional economy in Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton counties, and provides this section will expire June 30, 2014.

Section 3: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

For fiscal year 2011-2012 a nonrecurring appropriation of \$10 million from General Revenue is provided to OTTED to assist in diversifying the regional economy in Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton counties. The funds will be used to recruit and expand targeted industries and businesses to the region.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provisions of the bill may help to mitigate the economic impacts of the oil spill and boost recovery efforts in northwest Florida.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2011, the Economic Development and Tourism Subcommittee adopted two amendments, which:

- Provide that a qualified target industry business relocating to one of the designated oil spill counties from another state may receive certain incentives from the Qualified Target Industry Tax Refund Program.
- Correct an oversight and add Wakulla County to the designated RACEC.

The bill was reported favorably as a committee substitute and the analysis has been updated to reflect the adopted amendments.

On March 30, 2011, the Finance & Tax Committee adopted two amendments, which:

- Removes the Rural Jobs Tax Credit from the eligibility for waiver of criteria, requirements, for similar provisions of economic development incentives provided under s. 228.0656(7), F.S. for the new RACEC designation in the bill.
- Replaces the recurring appropriations in the bill with a nonrecurring \$10 million appropriation from General Revenue to OTTED to assist in diversifying the regional economy in Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton counties. The funds will be used to recruit and expand targeted industries and businesses to the region.

The bill was reported favorably as a committee to the committee substitute and the analysis has been updated to reflect the adopted amendments.