

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/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	17 Y, 0 N, As CS	Tecler	Tinker

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 impact of the oil spill and boosting recovery efforts in northwest Florida.

CS/CS/CS/HB 1309 designates the counties of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, Walton, and municipalities within those counties, as disproportionately affected counties. Further, the bill authorizes the Governor and the Office of Tourism, Trade and Economic Development, to waive job, wage, and local match criteria for certain economic development incentives in any one of these counties. Waivers may be granted between July 1, 2011 and June 30, 2014.

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.

The bill 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 \$1.7 billion in Florida. However, the total clean up and recovery costs have yet to be determined.

BP Payments and Investments in Florida⁶	
Through April 11, 2011	
Florida Government Payments	\$72,200,000
Total Payments to Individuals and Businesses	\$1,538,100,000
• Gulf Coast Claims Facility ^a	\$81,600,000
• BP Claims Process ^b	\$1,456,500,000
Vessels of Opportunity Payments ^c	\$72,900,000
Tourism Payments	\$62,000,000
Seafood Testing/Marketing	\$4,800,000
NRDA Payments	\$8,000,000
Research Payments	\$10,000,000
Behavioral Health Payments	\$3,000,000
Contributions	\$300,000
Total	\$1,773,200,000
(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 Tourism payments include the \$30 million provided to the Northwest Florida Tourism Council on April 11, 2011.

See: <http://www.flgov.com/2011/04/11/governor-scott-gets-30-million-for-northwest-florida-marketing-from-bp/> (last visited 04/13/2011).

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 Principal cities or urban designations in northwest Florida include Pensacola, Panama City, Destin, and Ft. Walton Beach, but the area is also home to many rural counties and communities.

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.¹²

Changes Made By the Bill

CS/CS/CS/HB 1309 authorizes several initiatives targeted at mitigating the economic impact of the oil spill and boosting recovery efforts in northwest Florida. First, the bill provides that certain counties affected by the oil spill may be eligible for waivers that exempt businesses in such counties from meeting job, wage, and local match requirements for several economic development incentive

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/areaprofiles/county/index.cfm>, (last visited 3/27/2011)

¹² <http://www.floridagreatnorthwest.com/WhatWeDo/visionmission.html>, (last visited 03/27/2011).

programs. Second, the bill provides a \$10 million appropriation for FY 2011-12 for the purpose of encouraging regional economic development. Third, the bill requires a report on current multistate compacts and whether current or future compacts could enhance the Deepwater Horizon disaster recovery effort.

Disproportionally Affected Counties

The bill designates the counties of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, Walton, and municipalities within those counties, as disproportionately affected counties. The changes proposed in this bill are focused on and limited to the eight oil spill affected counties and allow the Governor and the Office of Tourism, Trade and Economic Development (OTTED), to waive job and wage criteria for certain economic development incentives in any one of these counties. Waivers may be granted between July 1, 2011 and June 30, 2014.

OTTED may waive job and wage requirements on the first \$5 million in total state incentives provided to a project without the approval of the Legislature. Prior to granting the waiver, the director of OTTED must provide the Governor with a written statement explaining the conditions and circumstances that necessitated the need for a waiver. If approved by the Legislature, the Governor may waive the job and wage requirements for incentives totaling in excess of \$5 million but less than \$10 million per project. The Governor must provide written notice to the chair and vice-chair of the Legislative Budget Commission (LBC) at least 5 business days prior to the effective date of the waiver. If the chair or vice chair of the LBC notifies the Governor that granting such waiver exceeds the delegated authority of the office or is contrary to legislative policy, the Governor must void the waiver.¹³ A list of incentive programs that qualify for certain waivers in this bill are provided below.

Wage and local match requirements for the following incentive may be waived in full or in part:

- The Qualified Target Industry Tax Refund Program
The bill provides that a qualified target industry business relocating to a disproportionately affected county from another state may receive a tax refund of up to \$6,000 for each newly created job.¹⁴ Further, a qualified target industry 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.¹⁵

Wage and job creation requirements for the following incentives may be waived in full or in part:

- “Road Fund”¹⁶
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.
- Local Government Distressed Area Matching Grant Program¹⁷
The program matches expenditures, up to \$50,000, made by local governments to attract or retain businesses in the state. When reviewing applications, OTTED must consider the average hourly wage of the target business.

¹³ If the chair or vice-chair of the Legislative Budget Commission determines that a waiver exceeds the Governor’s delegated authority or is contrary to legislative policy, the chair or vice-chair must provide written notice prior to the effective date of the waiver.

¹⁴ Currently, s. 288.106(3)(b)1., F.S., restricts the \$6,000 refund to qualified target industry businesses in a rural community or an enterprise zone.

¹⁵ Section 288.106(3)(b)4., F.S.

¹⁶ Contracts for transportation projects under s. 288.063, F.S.

¹⁷ Section 288.0659, F.S. To qualify for a grant, the business being targeted by a local government must create at least 15 full-time jobs and relocate to, expand, or retain operations in the state. The local government applying for the grant must also expedite its permit process by accelerating the normal review and approval timelines.

- Economic Gardening Business Loan Pilot Program¹⁸
The program provides low-interest, short-term loans to eligible businesses for working-capital expenses, employee training, and salaries of new employees. Qualified businesses must meet the job creation and wage requirements of the Economic Gardening Technical Assistance Pilot Program.

The wage requirement for the following incentive may be waived in full or in part:

- Quick Action Closing Fund¹⁹
The Quick Action Closing Fund is a tool that may be used to incentivize a business to locate to the state. In general, the company must be in an industry eligible for the Qualified Target Industry Tax Refund Program and the project must have a positive payback ratio of at least five to one. An eligible project must pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage.

The job creation requirement for the following incentives may be waived in full or in part:

- High Impact Performance Incentive Grants²⁰
The program is designed to attract “high impact” sectors of the economy to Florida such as life sciences, financial services, and manufacturing. A high-impact business, at minimum making a cumulative investment of \$50 million and creating 50 jobs, may be eligible for a total performance grant of \$500,000 to \$1 million.²¹ Projects that exceed minimum requirements may be eligible for a higher range of funding.
- Innovation Incentive Program²²
The program is designed to attract biomedical, innovative technology, alternative energy, and research and development entities to Florida. Under current law, OTTED is authorized to waive the average wage requirement where appropriate.
- Rural Infrastructure Fund²³
The fund facilitates the planning, preparing, and financing of infrastructure projects in rural counties. Currently, awards for planning and feasibility studies are determined, in part, by the number of jobs created by the project.
- Brownfield Redevelopment Bonus Refunds²⁴
The tax-refund program provides a refund of up to \$2,500 per newly created job for certain businesses located in contaminated and abandoned or underused areas. An eligible business must create at least 10 new full-time jobs.

The bill also provides that OTTED may waive the job creation and wage requirements for the Rural Development Revolving Loan Fund²⁵ and for the Rural Economic Development Strategy Grants.²⁶

¹⁸ Section 288.1081, F.S.

¹⁹ Section 288.1088, F.S.

²⁰ Section 288.108, F.S.

²¹ A Research and development high-impact business making a cumulative investment of \$25 million and creating 25 jobs, may qualify under s. 288.108(3)(b), F.S., for a total performance grant of \$700,000 to \$1 million.

²² Section 288.1089, F.S. Eligible projects must pay an average annual wage of at least 130 percent of the area or statewide average private-sector wage and meet certain job creation and investment requirements.

²³ Section 288.0655, F.S. The program may grant up to \$300,000 or no more than 30 percent of the total cost of the infrastructure project and feasibility studies. Further, up to \$300,000 may be awarded to a local government to conduct a preclearance review. The local government must provide at least a 33 percent match.

²⁴ Section 288.107, F.S. In order to qualify, a business must be eligible for the QTI program, invest \$2 million in multi-use business activities, or invest \$500,000 in Brownfield areas that do not require cleanup.

²⁵ Section 288.065, F.S. The fund is administered by OTTED and provides loan and loan guarantees that may be used to finance initiatives that address employment or further the economic development of a rural community.

²⁶ Section 288.0657, F.S. The program provides grants to assist rural communities in developing and implementing strategic economic development plans.

Regional Economic Development Assistance

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.
- 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.

Report on Multistate Compacts

The bill requires the Board of Trustees of the Internal Improvement Trust Fund to determine if any existing multistate compact or future multistate compact may benefit the state and the Deepwater Horizon recovery effort. The report must be submitted to the Legislature by February 1, 2013.

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

B. SECTION DIRECTORY:

- Section 1:** Creates s. 288.1062, F.S., designating certain counties as disproportionately affected counties and providing waivers for certain economic development 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:** Requires the Board of Trustees of the Internal Improvement Trust Fund to issue a report related to multistate compacts.
- Section 4:** 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.

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:

- Provides 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.
- Corrects an oversight and adds 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 eligibility for waiver of criteria and requirements allowed under 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 substitute and the analysis has been updated to reflect the adopted amendments.

On March April 12, 2011, the Economic Affairs Committee adopted one amendment, which:

- Designates the counties of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, Walton, and municipalities within those counties, as disproportionately affected counties;
- Authorizes the Governor and OTTED, to waive job, wage, and local match criteria for certain economic development incentives in any one of these counties between July 1, 2011, and June 30, 2014;
- Allows a qualified target industry business relocating to one of the disproportionately affected counties from another state to receive certain incentives from the Qualified Target Industry Tax Refund Program; and
- Requires the Board of Trustees of the Internal Improvement Trust Fund to issue a report related to multistate compacts.

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