

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) Rulemaking & Regulation Subcommittee			
3) Transportation & Economic Development Appropriations Subcommittee			
4) 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 will be eligible for certain incentive benefits that are available under the program as well as some additional incentive enhancements. These changes may have the effect of stimulating private sector economic activity within those counties.

For fiscal years 2011-2012, 2012-2013, and 2013-2014, the bill appropriates \$10 million per fiscal year from general revenue to the Governor's Office of Tourism, Trade and Economic Development for the purpose of contracting with Florida's Great Northwest, Inc., to develop and implement a regional economic development program, which could encourage economic diversification and bring high-paying jobs to the region.

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/SB1000142405274870430230457521388355525958.html>, (last visited 03/14/2011).

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 03/14/2011).

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 03/14/2011).

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.

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,

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 03/15/2011).

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 03/15/2011).

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 03/15/2011).

¹¹ Florida County Profiles, The Office of Economic and Demographic Research.

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

¹³ Section 288.0656, F.S.

¹⁴ Section 288.0656(7)(a-c), F.S.

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. 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.

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 03/15/2011).

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.

- 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.
- Rural Job Tax Credit Program²⁵
Under this program, eligible businesses in the designated RACEC may receive a \$1000 tax credit for each newly created job.

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 apply without any memorandum of agreement between OTTED and the local governments within this 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

The bill authorizes the Office of Tourism, Trade and Economic Development to contract with Florida's Great Northwest, Inc. in order to develop and implement a regional economic development program. For fiscal years 2011-2012, 2012-2013, and 2013-2014, an appropriation of \$10 million per fiscal year is authorized from General Revenue to fund the development of the regional program. The mission of the program is to promote research and development, commercialization of research, job creation, and economic diversification in eight designated oil spill counties.²⁶ The bill provides that appropriated funds may not be used to pay the administrative costs of Florida's Great Northwest, Inc. Florida's Great Northwest Inc., is required to report quarterly to OTTED on the organization's activities and expenditure of funds. In addition, the organization must collaborate with educational entities, economic development organizations, local governments, and relevant state agencies to create a program framework and criteria for the expenditure of funds. The criteria for the expenditure of funds must include, at minimum, the following:

- A funding preference for the counties of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, Walton, and municipalities within those counties; and
- A preference for expedited permitting that will promote the mission of the program within the jurisdiction of eligible counties and municipalities.

The contract with Florida's Great Northwest and funding, reporting requirements, and limitations under the contract expire on June 30, 2014.

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

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

²³ Section 288.0655, F.S.

²⁴ Section 288.065, F.S.

²⁵ Section 212.098, F.S.

²⁶ Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, Walton counties.

B. SECTION DIRECTORY:

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

Section 2: Provides an appropriation for a regional economic development program.

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 years 2011-2012, 2012-2013, and 2013-2014, an appropriation of \$10 million per fiscal year from general revenue is provided to the Office of Tourism, Trade, and Economic Development for the purpose of contracting with Florida's Great Northwest, Inc., to develop and implement a regional economic development program.

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, in part, 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.