



Federal Affairs Subcommittee MEETING PACKET

**Wednesday, March 9, 2011
Webster Hall
8:00 AM – 9:00 AM**

**Dean Cannon
Speaker**

**Scott Plakon
Chair**



The Florida House of Representatives

State Affairs Committee

Federal Affairs Subcommittee

Dean Cannon
Speaker

Scott Plakon
Chair

AGENDA

March 9, 2011

8:00AM – 9:00AM

Webster Hall (212 Knott Building)

Call to Order

Opening Remarks by Chair Plakon

Consideration of the following bills:

HM 363 - Deepwater Horizon Oil Disaster/Penalties
Representative Coley

HM 539 - Deepwater Horizon Oil Spill/Tax Relief
Representative Patronis

Consideration of the following Proposed Committee Bill:

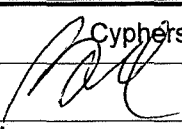
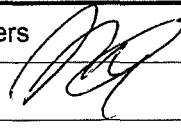
PCB FAS 11-01 -- Office of State-Federal Relations

Closing Comments by Chair Plakon

Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 363 Deepwater Horizon Oil Disaster/Penalties
SPONSOR(S): Coley and others
TIED BILLS: IDEN./SIM. BILLS: SM 218

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee		Cyphers 	Cyphers 
2) State Affairs Committee			

SUMMARY ANALYSIS

The House Memorial urges the United States Congress to permit civil penalties recovered under the Clean Water Act (CWA) as a result of the Deepwater Horizon Oil Spill be used to provide long-term environmental and economic assistance to states bordering the Gulf of Mexico, as well as its current use in recovery efforts from any future spills.

The House Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

The House Memorial has no fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

On April 20, 2010 in the Gulf of Mexico, the Deepwater Horizon drilling rig experienced an explosion¹ that would take the lives of eleven people and mark the beginning of the largest environmental disaster in the history of the United States. By the end of April 22nd, eleven members of the crew of the Deepwater Horizon were missing and presumed deceased²; several other crew members were injured; the \$350 million oil rig owned by Transocean³ had sunk to the bottom of the Gulf of Mexico; and oil and natural gas were leaking from pipes attached to the failed blowout preventer at the well head.

Response and Aftermath

The location of the leaking well site, known as the Macondo well, is approximately 45 miles southeast of Louisiana. As it became clear that the built-in measures to stop the leak had failed and that oil was beginning to spread away from the site of the leak, Governor Charlie Crist declared a state of emergency on April 30th for Escambia, Santa Rosa, Okaloosa, Walton, Bay, and Gulf counties⁴. On May 3rd, the governor's executive order was amended to add Franklin, Wakulla, Jefferson, Taylor, Dixie, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, and Sarasota counties⁵.

After several failed attempts to stop the leak from the well, including a failed "top kill" effort between May 26 through 29, 2010⁶; leaking from the well was finally stopped on July 15, 2010⁷. A new "static kill" was successfully completed on August 4, 2010⁸, and on September 19, 2010, after the relief well was finished and the well was cemented from beneath, Admiral Thad Allen announced that the well was "effectively dead."⁹

The federal government estimates the amount of oil released from the Macondo well to be approximately 4.9 million barrels or 205.8 million gallons of oil¹⁰. While 17 percent of the oil was captured at the wellhead (833,000 barrels), according to official oil budget reports, the remaining oil (4.2 million barrels) escaped immediate retrieval¹¹.

¹ http://www.nytimes.com/2010/04/22/us/22rig.html?_r=1&scp=1&sq=oil+rig+explosion&st=nyt

² <http://www.tampabay.com/incoming/as-oil-rig-sinks-hope-fades/1089672>

³ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling: Report to the President, January 2011

⁴ Office of the Governor, Executive Order Number 10-99 (Emergency Management – Deepwater Horizon) April 30, 2010

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⁶ <http://www.nytimes.com/2010/05/30/us/30spill.html>

⁷ <http://abcnews.go.com/WN/gulf-oil-spill-bps-cap-success-oil-stops/story?id=11173330>

⁸ <http://www.nytimes.com/2010/08/05/us/05spill.html>

⁹ <http://www.cbsnews.com/stories/2010/09/19/national/main6881308.shtml>

¹⁰ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling: Report to the President, January 2011

¹¹ http://www.noaanews.noaa.gov/stories2010/20101123_oilbudget.html

Oil Budget (Released Aug. 4)		Oil Budget Technical Report		
Category	% of Total	Category	% of Total	Change
Direct Recovery	17%	Direct Recovery	17%	None
Burned	5%	Burned	5%	None
Skimmed	3%	Skimmed	3%	None
Chemically Dispersed	8%	Chemically Dispersed	16%	+8%
Naturally Dispersed	16%	Naturally Dispersed	13%	-3%
Evaporated or Dissolved	25%	Evaporated or Dissolved	23%	-2%
Other	26%	Other	23%	-3%

According to a report by Secretary of the Navy Ray Mabus, at its peak, the response to the oil spill included more than 47,000 personnel; 7,000 vessels; 120 aircraft; and many federal, state, and local agencies¹². The final Situation Report by Florida's response team also noted the use of over 791,061 feet of boom; the removal of over 500,000 gallons of oil from Florida's shoreline; the deployment of 128 National Guardsmen; and the registration of 19,899 volunteers from all 50 states and 10 different countries¹³.

Claims Process

Under the provisions of Oil Pollution Act of 1990 (OPA), all "responsible parties" are liable for recovery costs and other damages resulting from an unpermitted release of oil into the navigable waters of the United States. The OPA, however, limits the damages to be paid by responsible parties at \$75 million per incident. However, according to a U.S. Coast Guard document on Oil Spill Liability Trust Fund Funding for Oil Spills, this limitation of liability disappears if the incident is found to have been caused by gross negligence; willful misconduct; or a violation of federal operating, construction, or safety regulations.¹⁴ BP has said that it would not claim protection under the \$75 million limit under OPA¹⁵.

On June 1, 2010, the United States Attorney General Eric Holder announced the federal government would pursue all legal remedies to the disaster, including civil and criminal penalties in order to ensure accountability on the part any responsible party.¹⁶ Later in June, at the request of President Obama, BP announced that it would create a trust that would total \$20 billion to pay all "legitimate claims"¹⁷.

All claims under OPA including recovery and damages related to individuals, governments and natural resources were to be paid out of this fund, though the \$20 billion amount was not intended to be a cap, according to BP.¹⁸

Until August 23, 2010, BP administered the payment of claims out of the trust fund, but the process of paying claims to individuals and businesses was subsequently turned over to an independent claims facility managed by Kenneth Feinberg with the opening of the Gulf Coast Claims Facility (GCCF)¹⁹.

¹² America's Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill, September 2010

¹³ Deepwater Horizon Response: Situation Report #114 (Final) August 26, 2010

¹⁴ <http://www.epa.gov/regulations/laws/opa.html>

¹⁵ <http://www.bloomberg.com/news/2010-05-21/bp-waiver-of-75-million-spill-damage-cap-may-recognize-liability-reality.html>

¹⁶ http://www.upi.com/Top_News/US/2010/06/01/Obama-pledges-investigation-of-spill/UPI-57771275397263/

¹⁷ <http://www.bp.com/genericarticle.do?categoryId=2012968&contentId=7062966>

¹⁸ *Id.*

¹⁹ <http://www.gulfcoastclaimsfacility.com/>

As of March 2, 2011, the total number of claimants to the GCCF reached 802,411. Of these claimants, 263,054 have been paid a total of \$3.46 billion thus far. Florida makes up 32% of all claims (254,557 claims) and 35.6% of all claims paid to date (97,271 claims paid totaling \$1.23 billion).²⁰

Claims for Natural Resource Damage

As mentioned above, the OPA makes responsible parties liable for damage caused as a result of unauthorized releases of oil. Pursuant to OPA, the party responsible for an oil spill is liable for any loss of natural resources (e.g., fish, animals, plants, and their habitats) and the services provided by the resource (e.g., drinking water, recreation).

When a spill occurs, natural resource trustees conduct a natural resource damage assessment to determine the extent of the harm. Trustees may include representatives from tribal governments as well as officials from state agencies (designated by the relevant Governor) and federal agencies (designated by the President), such as NOAA.²¹

The Oil Pollution Act (OPA) of 1990 states that the measure of natural resource damages includes:

- the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of, the damaged natural resources;
- the diminution in value of those natural resources pending restoration; and
- the reasonable cost of assessing those damages.

Pursuant to OPA, NOAA developed regulations pertaining to natural resource damage assessments in 1996. Natural resource damages may include both losses of direct use and passive uses. Direct use value may derive from recreational (e.g., boating), commercial (e.g., fishing), or cultural or historical uses of the resource. In contrast, a passive-use value may derive from preserving the resource for its own sake or for enjoyment by future generations.²²

The damages are compensatory, not punitive. Collected damages cannot be placed into the general treasury revenues of the federal or state government, but must be used to restore or replace lost resources. Indeed, NOAA's regulations focus on the costs of primary restoration -- returning the resource to its baseline condition -- and compensatory restoration -- addressing interim losses of resources and their services.²³

Pursuant to OPA, the separate process of the Natural Resource Damage Assessment (NRDA) and restoration following the Deepwater Horizon began with the efforts of groups like the Deepwater Horizon Oil Spill Trustee Council to assess the damage.²⁴ The Council is comprised of trustees from each member state as well as representatives from the U.S. Department of the Interior, the National Oceanic and Atmospheric Administration, and the U.S. Fish and Wildlife Service.

In addition to the Council, the Gulf Coast Ecosystem Restoration Task Force was authorized through an Executive Order by President Obama in October, 2010.²⁵ The Task Force is intended to work with stakeholder groups (like the Deepwater Horizon Oil Spill Trustee Council) and build upon the Natural Resource Damage Assessment (NRDA) effort in order to achieve comprehensive, long-term recovery

²⁰ Gulf Coast Claims Facility website; Overall Program Statistics; February 28, 2011

²¹ Congressional Research Service: Oil Spills in U.S. Coastal Waters: Background, Governance, and Issues for Congress

²² *Id.*

²³ *Id.*

²⁴ <http://www.dep.state.fl.us/deepwaterhorizon/who.htm>

²⁵ Executive Order 13554, by President Obama found at <http://www.whitehouse.gov/the-press-office/2010/10/05/executive-order-gulf-coast-ecosystem-restoration-task-force>

of the Gulf of Mexico. The Task force is comprised of state and federal leaders, and is chaired by U.S. Environmental Protection Agency Administrator, Lisa Jackson.²⁶

The NRDA is to be conducted in three phases: Assessment, Planning, and Implementation,²⁷ and the process allows for the cooperation by the responsible parties. At this time, however, there are uncertainties regarding the magnitude of the environmental consequences of the spill as observed. There is some risk that the amount of long-term environmental restoration dollars that may be needed will be greater than the amount BP has committed, and it is not known if all environmental impacts identified by the State of Florida will be addressed through the NRDA process.

Clean Water Act

The Clean Water Act contains provisions not covered by the OPA or other federal laws which allow for penalties to be levied when pollutants are discharged from a vessel or facility without authorization²⁸. The civil penalties awarded as a product of the Clean Water Act can be assessed on two separate scales which can be chosen by federal authorities; per day or volumetrically. Section 311(b)(7) of the Act allows for a penalty of \$37,500 for each day in which a violation occurs or \$1,100 per-barrel of oil discharged without a permit. These penalties can be increased significantly if the unlawful discharge is the result of gross negligence or willful misconduct by the owner, operator, or any person in charge of a vessel, or in the case of the Deepwater Horizon, an offshore facility. In fact, the per-barrel penalty for discharges as a result of gross negligence or willful misconduct can be as much as \$4,300. The provisions, as potentially applied in this case, provide for a civil penalty range between \$5.4 billion and \$21.1 billion²⁹.

Currently all funds derived from oil spill related civil penalties under the Clean Water Act must be placed into the Oil Spill Liability Trust Fund (OSLTF).³⁰ These funds can only be used for the purpose of unmet claims by responsible parties in future spill events. Further, all the total of all claims to the trust fund are limited by the cap of \$1 billion per pollution event.³¹ In the case of the Deepwater Horizon disaster, no funds collected as a result of CWA penalties (other than the capped \$1 billion from the current balance in the OSLTF) could be used for economic or environmental recovery in the five Gulf states including Florida.

In his September 2010 report to the president regarding the Gulf oil spill, Secretary of the Navy, Ray Mabus recommended that federal law be changed to allow the use of penalties collected under CWA as a result of the Deepwater Horizon oil leak to be used for long-term economic and environmental recovery in the Gulf states. He believed that these funds should be used to mitigate economic and natural resource damage not covered by the OPA. He also called for a portion of penalties to go directly to the states for their individual long-term recovery and economic development efforts. Finally, he recommended that the remaining balance should go to the OSLTF for future spills.³²

Effects of Proposed Changes

If enacted, this memorial would request that Congress enact legislation which would change the distribution of civil penalties collected through the Clean Water Act as a result of the Deepwater Horizon oil spill.

Rather than all of the proceeds from penalties going to the Oil Spill Liability Trust Fund which would be used for damages and recovery from future oil spills, some portion of the proceeds would be deposited

²⁶ <http://www.restorethegulf.gov/task-force/about-task-force/about-task-force>

²⁷ <http://www.dep.state.fl.us/deepwaterhorizon/nrda.htm>

²⁸ Section 311(j)(1) of the Clean Water Act of 1972

²⁹ Range for penalty amounts is based on assumed unauthorized oil discharge of 4.9 million barrels

³⁰ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling; Staff Working Paper Number 14

³¹ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling; Staff Working Paper Number 14

³² America's Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill, September 2010

into the Gulf Coast Recovery Fund which would be administered by the Gulf Coast Recovery Council. The memorial also stipulates that proceeds should be directed to the five Gulf States (Florida, Alabama, Mississippi, Louisiana, and Texas) so that they may pursue their individual recovery efforts as well. Finally, the memorial provides that some amount of the civil penalties would still be deposited into the Oil Spill Liability Trust Fund for future spill events.

Copies of the memorial are to be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Florida delegation to the United States Congress.

The legislation also includes whereas clauses in order to support the memorial. The whereas clauses include:

WHEREAS, on the night of April 20, 2010, there was an explosion at the Deepwater Horizon oil rig which caused at least 170 million gallons of oil to spill into the Gulf of Mexico over the course of several months and wash up onto the coastlines of the five Gulf states, and

WHEREAS, this man-made disaster spoiled portions of Florida's coastline and waterways and devastated its fishing and tourism industries, and

WHEREAS, this man-made disaster has directly resulted in the loss of jobs and business for Floridians, and

WHEREAS, a preliminary study by the University of Central Florida predicted job losses of 195,000 and spending losses of \$10.9 billion if Florida's 23 counties along the Gulf Coast lose 50 percent of their tourism and leisure jobs and spending, and

WHEREAS, that preliminary study also predicted job losses of 39,000 and spending losses of \$2 billion if those same counties lose 10 percent of their tourism and leisure jobs and spending, and

WHEREAS, despite clean-up efforts, oil remains buried in the sand on the Gulf states' coastlines and in the waters offshore, and

WHEREAS, the amount of oil remaining in the Gulf waters is still unknown and some researchers have discovered oil below the sea's surface, including on the ocean floor, and

WHEREAS, although seafood caught off of Florida's coast is safe to eat and approximately 90 percent of the fishing closures in federal waters have been lifted, the long-term effect on the Gulf's sea life is still unknown, and

WHEREAS, under current law, any civil penalties recovered pursuant to the Clean Water Act must be deposited into the Oil Spill Liability Trust Fund to be used for clean-up and response efforts for future oil spills, and

WHEREAS, United States Secretary of the Navy, Ray Mabus, recommended that Congress dedicate a significant portion of any civil penalties recovered under the Clean Water Act to providing assistance for the region where the damage from the disaster occurred...

B. SECTION DIRECTORY:

None.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

B. RULE-MAKING AUTHORITY:

Not Applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Memorial

A memorial to the Congress of the United States, urging Congress to dedicate penalties collected from parties responsible for the Deepwater Horizon oil disaster to repairing the environmental and economic damage caused by the disaster.

WHEREAS, on the night of April 20, 2010, there was an explosion at the Deepwater Horizon oil rig which caused at least 170 million gallons of oil to spill into the Gulf of Mexico over the course of several months and wash up onto the coastlines of the five Gulf states, and

WHEREAS, this man-made disaster spoiled portions of Florida's coastline and waterways and devastated its fishing and tourism industries, and

WHEREAS, this man-made disaster has directly resulted in the loss of jobs and business for Floridians, and

WHEREAS, a preliminary study by the University of Central Florida predicted job losses of 195,000 and spending losses of \$10.9 billion if Florida's 23 counties along the Gulf Coast lose 50 percent of their tourism and leisure jobs and spending, and

WHEREAS, that preliminary study also predicted job losses of 39,000 and spending losses of \$2 billion if those same counties lose 10 percent of their tourism and leisure jobs and spending, and

WHEREAS, despite clean-up efforts, oil remains buried in the sand on the Gulf states' coastlines and in the waters offshore, and

HM 363

2011

29 WHEREAS, the amount of oil remaining in the Gulf waters is
 30 still unknown and some researchers have discovered oil below the
 31 sea's surface, including on the ocean floor, and

32 WHEREAS, although seafood caught off of Florida's coast is
 33 safe to eat and approximately 90 percent of the fishing closures
 34 in federal waters have been lifted, the long-term effect on the
 35 Gulf's sea life is still unknown, and

36 WHEREAS, under current law, any civil penalties recovered
 37 pursuant to the Clean Water Act must be deposited into the Oil
 38 Spill Liability Trust Fund to be used for clean-up and response
 39 efforts for future oil spills, and

40 WHEREAS, United States Secretary of the Navy, Ray Mabus,
 41 recommended that Congress dedicate a significant portion of any
 42 civil penalties recovered under the Clean Water Act to providing
 43 assistance for the region where the damage from the disaster
 44 occurred, NOW, THEREFORE,

45

46 Be It Resolved by the Legislature of the State of Florida:

47

48 That the Legislature requests the United States Congress to
 49 enact legislation that permits any civil penalties recovered
 50 under the Clean Water Act due to the Deepwater Horizon oil
 51 disaster to be distributed in the following manner:

52 (1) Deposited into a newly created Gulf Coast Recovery
 53 Fund, which is managed by a Gulf Coast Recovery Council and used
 54 to provide assistance for long-term environmental and economic
 55 recovery in the Gulf;

56 (2) Directed to the five Gulf states to enable each state

HM 363

2011

57 | to pursue its own recovery efforts; and

58 | (3) Deposited into the Oil Spill Liability Trust Fund for
59 | future recovery efforts.

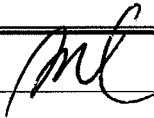
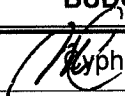
60 | BE IT FURTHER RESOLVED that copies of this memorial be
61 | dispatched to the President of the United States, to the
62 | President of the United States Senate, to the Speaker of the
63 | United States House of Representatives, and to each member of
64 | the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 539 Deepwater Horizon Oil Spill/Tax Relief

SPONSOR(S): Patronis and others

TIED BILLS: IDEN./SIM. BILLS: CS/SM 214

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee		Cyphers	 Cyphers
2) Economic Affairs Committee			

SUMMARY ANALYSIS

This memorial urges Congress to support certain tax-relief provisions of H.R. 5699 and S. 3934, introduced in the 111th Congress, or similar legislation relating to the Deepwater Horizon Oil Spill of 2010. Specifically, the memorial urges Congress to adopt the following provisions:

- Exempt from federal taxation as income, any insurance payouts arising from the oil spill, and payments for damages attributable to the oil spill under s. 1002 of the Oil Pollution Act of 1990, 33 U.S.C. 2702, which were reinvested in the Oil Spill Recovery Zone;
- Recognize any taxpayer who has a qualified oil-spill loss as eligible to use the federal 5-year net operating loss carryback for federal tax purposes;
- Exempt from federal taxation, the housing stipends paid to persons who are employed in the cleanup efforts, and award a tax credit to employers who paid the stipends;
- Award an Employee Retention Tax Credit to qualified employers in the affected Gulf Coast area;
- Waive the tax penalty on early withdrawals of certain retirement plans if the proceeds are used as specified;
- Relax the cap on federal deductions for charitable contributions dedicated to the cleanup efforts; and
- Award a Work Opportunity Tax Credit for the hiring of qualified recovery zone employees.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

On April 20, 2010 in the Gulf of Mexico, the Deepwater Horizon drilling rig experienced an explosion¹ that would take the lives of eleven people and mark the beginning of the largest environmental disaster in the history of the United States. By the end of April 22nd, eleven members of the crew of the Deepwater Horizon were missing and presumed deceased,² several other crew members were injured, the \$350 million oil rig owned by Transocean³ had sunk to the bottom of the Gulf of Mexico, and oil and natural gas were leaking from pipes attached to the failed blowout preventer at the well head.

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After several failed attempts to stop the leak from the well, including a failed "top kill" effort between May 26 through 29, 2010;⁶ leaking from the well was finally stopped on July 15, 2010.⁷ A new "static kill" was successfully completed on August 4, 2010⁸, and on September 19, 2010, after the relief well was finished and the well was cemented from beneath, Admiral Thad Allen announced that the well was "effectively dead."⁹

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Responsible Parties

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Claims Process

In June 2010, at the request of President Obama, BP announced that it would create a trust that would total \$20 billion to pay all "legitimate claims".¹⁵ The claims would include all recovery and damages related to individuals, governments and natural resources. Until August 23, 2010, BP administered the payment of claims out of the trust fund, but the process was subsequently turned over to an independent claims facility managed by Kenneth Feinberg with the opening of the Gulf Coast Claims Facility (GCCF).¹⁶

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Historical Tax Relief Measures

On several occasions, Congress has passed legislation aimed at providing tax relief to both businesses and individuals affected by natural disasters. One of the most recent instances relates to taxpayers affected by Hurricanes Katrina, Rita, and Wilma in 2005.¹⁸ The other is related to individuals and businesses affected by the declared disaster areas of the Midwest in 2008.¹⁹

The subjects addressed by these historical tax relief measures include:²⁰

- Charitable Giving Incentives;
- IRAs and Other Retirement Plans;
- Net Operating Losses;
- Specific Tax Relief for Individuals; and
- Specific Tax Relief for Businesses

In the summer of 2010, a similar effort to provide tax relief was begun in Congress in response to the Deepwater Horizon Oil Spill. In the House of Representatives, Representatives Miller, Bonner and Boyd sponsored the Gulf Oil Spill Recovery Act of 2010.²¹ In the Senate, Senators Wicker and Vitter sponsored the Gulf Coast Oil Recovery Zone Tax Relief and Economic Recovery Act, or Senate Bill 3934.²²

With the exception of the first area of tax relief listed below, each of the following seven tools to provide relief to taxpayers in areas affected by the Deepwater Horizon Oil Spill can be found in Katrina Relief Act of 2005, the Gulf Opportunity Act of 2005, and the Heartland Disaster Relief Act of 2008.²³

Effects

The memorial asks Congress to support and pass measures regarding relief in the following areas of federal taxes.

1. Exempting Payouts from Federal Taxation

Under current law, payouts from insurance payments, whether they are for damages or loss of income or wages, are not considered to be taxable income by the Internal Revenue Service.²⁴ However, damages for loss of income and profit, like those that are currently being paid by BP, are considered taxable income because they are considered a replacement of monies which would typically be taxed.²⁵

¹⁷ Gulf Coast Claims Facility website; Overall Program Statistics; February 28, 2011

¹⁸ Emergency Tax Relief Act of 2005 and the Gulf Opportunity Zone Act of 2005

¹⁹ Heartland Disaster Tax Relief Act of 2008

²⁰ Internal Revenue Service Publication 4492 (January 2006) and 4492-B (January 2010)

²¹ H.R. 5699; 111th Congress, July 1, 2010

²² S. 3934; 111th Congress, September 29, 2010

²³ Internal Revenue Service Publication 4492 (January 2006) and 4492-B (January 2010)

²⁴ Internal Revenue Service Notice 1412, January 2011

²⁵ Internal Revenue Service Publication 4873, July 2010

This form of tax relief is not found in the hurricane or Midwest disaster relief packages. However, it is provided for in the Senate bill that was introduced in the Senate in 2010.²⁶

Senate Bill 3934 by Senators Wicker and Vitter would make all payouts, whether they are for damages or lost income and profits, non-taxable if the payout is related to the Deepwater Horizon Oil Spill. It should be noted that this provision is found only in the Senate relief package and is not found in the House's Gulf Oil Spill Recovery Act of 2010.

2. Net Operating Loss Carryback Period

Legislation proposed in the U.S. House of Representatives would allow any taxpayer who has a qualified oil-spill loss to use a federal 5-year net operating loss carryback for federal tax purposes.²⁷ Under current law, the net operating loss carryback period allows businesses to amend tax returns from the previous 2 years to account for losses and receive a refund for past taxes paid.

The Senate legislation sought to enact law that would allow fishing and tourism-related businesses to carry back their losses from the oil spill for an additional 3 taxable years ("Gulf Coast net operating loss carryback").²⁸ The Gulf Coast net operating loss carryback would allow Gulf Coast fishing- and tourism-related businesses with \$5 million or less in revenue to look back 5 years. Losses otherwise eligible for the carryback period would be reduced by any amounts the business receives from BP for lost profits and earning capacity.

Congress previously enacted a similar rule for businesses following Hurricane Katrina in 2005 and the Midwestern storms, tornadoes, and floods in 2008. Farming losses permanently qualify for a 5-year carryback period.

3. Housing Stipends

Individuals employed in the cleanup efforts of the Deepwater Horizon Oil Spill were eligible for housing stipends to cover lodging expenses acquired during the course of their employment. Under Federal law, housing allowances are generally treated as taxable income, unless specifically excluded under the IRS Code (i.e. clergy, military).²⁹ Certain employers with a trade or business located in the Gulf Oil Spill Recovery Zone have paid housing stipends during the Deepwater Horizon Oil Spill cleanup process.

4. Employee Retention Tax Credit

This benefit has been historically applied to an employer who was actively involved in business in a named disaster area during the time of impact, and whose business was inoperable for some time after the time of impact. The credit is for 40% of all qualified wages for each employee, up to \$6,000 per employee. Generally, an employer would have to reduce their deduction for salaries and wages by the amount of the credit being claimed. The wages paid to retained employees can be claimed for this credit, even if the employee performs no actual work during this period.³⁰

²⁶ S. 3934; 111th Congress, September 29, 2010

²⁷ H.R. 5699; 111th Congress, July 1, 2010

²⁸ Senator Nelson introduced an amendment of H.R. 4213 to achieve this purpose; see also, S. 3934; 111th Congress, September 29, 2010

²⁹ Internal Revenue Service Publication 517; See also IRS Publications 3 and 4

³⁰ Internal Revenue Service Publication 4492 and 4492-B

5. Tax Penalties on Early Withdrawals of Retirement Plans

Most retirement distributions that are paid from a qualified retirement plan or nonqualified (deferred) annuity contract to a participant before he/she reaches the age 59½, are subject to a 10% additional tax penalty for early withdrawal.³¹ This additional tax only applies to the portion of the distribution that the participant must include in his/her gross income, and does not apply to any portions of a distribution that are tax free, or for "corrective distributions of excess deferrals, excess contributions, or excess aggregate contributions."³²

According to the Internal Revenue Service (IRS), a qualified retirement plan includes:

- A qualified employee plan, including a qualified cash or deferred arrangement (CDA) under the Internal Revenue Code section 401(k),
- A qualified employee annuity plan,
- A tax-sheltered annuity plan (403(b) plan), or
- An eligible state or local government section 457 deferred compensation plan, to the extent that any distribution is attributable to amounts the plan received in a direct transfer or rollover from one of the other plans listed here or an IRA.³³

Deferred annuity contracts that are otherwise subject to the additional 10% tax penalty for early distributions may receive a 5% tax rate instead. "This 5% tax rate applies to distributions under a written election providing a specific schedule for the distribution of [the participant's] interest in the contract if, as of March 1, 1986, (the participant) had begun receiving payments under the election."³⁴

Both bills proposed by in the U.S. House of Representatives and the Senate allow for a withdrawal of \$100,000 without penalty for those who live in the "Recovery Zone" and have been affected by the oil spill in the Gulf of Mexico.³⁵

6. Federal Cap on Deductions for Charitable Contributions

Taxpayers are permitted to deduct the value of charitable contributions made to qualified organizations from their income taxes. The IRS outlines five types of organizations that can constitute a qualified organization:

Community chests, corporations, trusts, funds, or foundations that are organized under the laws of the United States, any state, or the District of Columbia that are organized and operated for the following purposes:

- Religion, charity, education, science, literary, and for the prevention of cruelty to children or animals.
- War veterans' organizations.
- Domestic fraternal societies, orders and associations operating under the lodge system.
- Certain nonprofit cemetery companies/corporations.

³¹ Internal Revenue Service Publication 575

³² *Id.*

³³ *Id.*

³⁴ *Id.* (alteration in original).

³⁵ H.R. 5699; 111th Congress, July 1, 2010 and S. 3934; 111th Congress, September 29, 2010

- The United States, any state, the District of Columbia, a U.S. possession or a political subdivision therein, or an Indian tribal government or subdivision performing governmental functions.³⁶

The Federal Government limits the amount of charitable contributions certain taxpayers can deduct from their income taxes, depending upon the taxpayer and the type of charity or organization. As of 2009, this charitable contribution limit applies to taxpayers who have an adjusted gross income that is more than \$166,800 for married, filing jointly or \$83,400 for married taxpayers who file separately.³⁷

Generally the federal cap on deductions for charitable contributions is 50%, meaning that the taxpayer's charitable contributions cannot exceed more than 50% of his or her gross income for that year.³⁸

Charitable gifts to certain organizations such as "veterans' organizations, fraternal societies, nonprofit cemeteries and certain private non-operating foundations" have a lower deduction limit of 30%.³⁹

Gifts of property that would otherwise be subject to capital gains taxes are treated differently by the IRS. Gifts of capital gains property that are provided to a 50% limit organization have a 30% cap, whereas gifts to non-50% limit organizations, have a 20% cap.⁴⁰

Taxpayers that have provided charitable contributions that exceed the adjusted gross income limit for the year are permitted to "carryover" any excess contributions over the next 5 years until the excess amount is used up.⁴¹

House Resolution 5699, the Gulf Spill Recovery Act of 2010, suspends the limitation on the tax deduction for charitable contributions through 2012.

7. Work Opportunity Tax Credit

The Work Opportunity Tax Credit (WOTC) is a federal income tax credit program administered by the U.S. Department of Labor and the state workforce agencies (in Florida, the state workforce agency is the Agency for Workforce Innovation). "The main objective of this program is to enable the targeted employees to gradually move from economic dependency into self-sufficiency as they earn a steady income and become contributing taxpayers, while the participating employers are compensated by being able to reduce their federal income tax liability."⁴² The WOTC is intended to lower an employer's cost of doing business.

Employers must request and receive certification from the state workforce agency before claiming a WOTC on federal income tax returns. The state workforce agency is responsible for certifying that the employee is a new hire that is a member of one of the WOTC target groups consisting of individuals who have consistently faced significant barriers to employment.

For most target groups, the WOTC can be as much as \$2,400, which is based on qualified wages paid to the new employee for the first year of employment. Generally, qualified wages are capped at \$6,000. The credit is 25% of qualified first-year wages for those employed at least 120 hours and 40% for those employed 400 hours or more. To qualify employers for the WOTC, the new hire must begin work after

³⁶ Internal Revenue Service, Publication 526

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id.

⁴² U.S. Department of Labor – Work Opportunity Tax Credit, available at <http://www.doleta.gov/business/incentives/opptax/>

December 31, 2005, and before September 1, 2011.⁴³ There is no limit to the number of qualified employees for which an employer can take the credit.

Congress has enacted a special WOTC for certain impacted groups in the past. After Hurricane Katrina, hired employees that were victims of Hurricane Katrina were eligible for the WOTC.

Other

Copies of the memorial are to be sent to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and to each member of the Florida delegation to the United States Congress.

The legislation also includes whereas clauses in order to support the memorial. The whereas clauses include:

WHEREAS, on April 20, 2010, an explosion occurred on the Deepwater Horizon oil drilling platform, allowing millions of gallons of crude oil to contaminate the waters of the Gulf of Mexico and the beaches and coastline of Florida, and

WHEREAS, the oil spill forced the closure of many areas of the Gulf of Mexico to commercial fishing, creating financial hardship for Floridians engaged in fishing and the related industries of seafood processing, seafood packaging, and the wholesale and retail sales of seafood, and

WHEREAS, the oil spill forced the closure of many miles of pristine, white, sandy public beaches in Florida, depositing tar balls and oily sheen on the beaches and threatening tidal marshes and bays elsewhere in Florida, and

WHEREAS, closure of the beaches and Gulf waters created financial hardships for the state's hospitality industry, particularly in Northwest Florida, during its most profitable time of the year...

B. SECTION DIRECTORY:

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

⁴³ U.S. Department of Labor – Work Opportunity Tax Credit Brochure, available at <http://www.doleta.gov/business/incentives/opptax/>

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HM 539

2011

House Memorial

A memorial to the Congress of the United States, urging Congress to support the tax-relief provisions of H.R. 5699 and S. 3934, initiated in the 111th Congress, or similar legislation, relating to the Deepwater Horizon Oil Spill of 2010.

WHEREAS, on April 20, 2010, an explosion occurred on the Deepwater Horizon oil drilling platform, allowing millions of gallons of crude oil to contaminate the waters of the Gulf of Mexico and the beaches and coastline of Florida, and

WHEREAS, the oil spill forced the closure of many areas of the Gulf of Mexico to commercial fishing, creating financial hardship for Floridians engaged in fishing and the related industries of seafood processing, seafood packaging, and the wholesale and retail sales of seafood, and

WHEREAS, the oil spill forced the closure of many miles of pristine, white, sandy public beaches in Florida, depositing tar balls and oily sheen on the beaches and threatening tidal marshes and bays elsewhere in Florida, and

WHEREAS, closure of the beaches and Gulf waters created financial hardships for the state's hospitality industry, particularly in Northwest Florida, during its most profitable time of the year, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida:

That certain provisions of H.R. 5699 and S. 3934, initiated

HM 539

2011

29 in the 111th Congress, or similar legislation, which address tax
 30 relief for affected businesses and individuals and which would
 31 be most beneficial to Floridians should be approved by Congress.
 32 These provisions are: exempting from federal taxation as income
 33 any insurance payouts arising from the oil spill and payments
 34 for damages attributable to the oil spill under s. 1002 of the
 35 Oil Pollution Act of 1990, 33 U.S.C. 2702, which were reinvested
 36 in the Oil Spill Recovery Zone; recognizing any taxpayer who has
 37 a qualified oil-spill loss as eligible to use the federal 5-year
 38 net operating loss carryback for federal tax purposes; exempting
 39 from federal taxation the housing stipends paid to persons who
 40 are employed in the cleanup efforts, and awarding a tax credit
 41 to employers who paid the stipends; awarding an Employee
 42 Retention Tax Credit to qualified employers in the affected Gulf
 43 Coast area; waiving the tax penalty on early withdrawals of
 44 certain retirement plans if the proceeds are used as specified;
 45 relaxing the cap on federal deductions for charitable
 46 contributions dedicated to the cleanup efforts; and awarding a
 47 Work Opportunity Tax Credit for the hiring of qualified recovery
 48 zone employees.


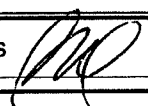
49 BE IT FURTHER RESOLVED that copies of this memorial be
 50 dispatched to the President of the United States, to the
 51 President of the United States Senate, to the Speaker of the
 52 United States House of Representatives, and to each member of
 53 the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: An act relating to the Office of State-Federal Relations

SPONSOR(S): Plakon

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Federal Affairs Subcommittee		 Cyphers	Cyphers 

SUMMARY ANALYSIS

The Florida Office of State-Federal Relations (Office) was created in 1977.¹ Its purpose, as articulated in its founding legislation,² was to create strong and cooperative alliances between the State of Florida and Florida's Congressional delegation, as well as federal agencies. The duties of the Office include acting as liaison between state and federal officials, providing grant assistance and advice to state agencies, assisting in the evaluation and management of Florida's intergovernmental relations efforts, and facilitating the activities of Florida officials traveling to Washington, D.C., on official business.

In 1979, the statute creating the Office was amended to ensure the active involvement of the Legislature.³ The newer provisions clarified that the Office is to represent the legislative and executive branches of government, and that the duties of the office will be created in consultation with the Speaker of the House of Representatives and the President of the Senate. It also added that the director of the Office is to be appointed by the governor.

Additional provisions to the law were also passed in 1995⁴ to require the Executive Office of the Governor to consult with the Office with the goal of attaining an equitable share of federal revenue for the State of Florida. Those provisions include the evaluation of federal funding, development of a federal aid formula database, establishment of formula modeling capability, and development of a communications network that links Florida's legislative and executive branches with the state's congressional delegation.

Although the duties relating to the Office are several and appear in more than one section of Florida Statutes, and even though there is clear language providing access and oversight by the Legislature, there is no formal mechanism for that oversight. This bill requires the Office of State-Federal Relations to prepare and submit an annual report detailing its budget, personnel and activities. The report is due to the governor, Speaker to the House of Representatives, and the President of the Senate by January 1 of each year.

¹ Chapter 77-419, Laws of Florida

² SB 43-B, 1977

³ Chapter 79-190, Laws of Florida

⁴ Chapter 95-303, Laws of Florida

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: PCB FAS 11-01.DOCX

DATE: 3/7/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Office of State-Federal Relations was created by the Florida Legislature during Special Session B in 1977. The physical office is located in Washington, D.C., near the Senate Office Buildings in a facility known as the Hall of States.⁵ Twenty-seven states, including Florida, have state offices in the Hall of States. Those states are: California, New York, Pennsylvania, Illinois, Ohio, Michigan, North Carolina, Massachusetts, New Jersey, Arizona, Georgia, Washington, Wisconsin, Maryland, Virginia, Kentucky, South Carolina, Oregon, Connecticut, New Mexico, Arkansas, Iowa, Kansas, Alaska, Nevada, and Delaware.⁶ Texas⁷ and Indiana also have offices in Washington, D.C., but they are located elsewhere.

Section 14.23, F.S., as originally created in Chapter 77-419, Laws of Florida, addressed the intent of the Office, the fundamentals of its creation, and provided some enumerated duties.

The opening clause of the legislative intent regarding the Office, as originally crafted in 1977, is similar to the modern iteration of the language found in s. 14.23(1), F.S. "It is the intent of this legislation to establish mechanisms, through which the legislative and executive branches of state government can work together in a cooperative alliance, to strengthen the state's relationship with our Congressional Delegation and with federal agencies, and improve our position over federal legislative impact on the state."

In 1995, additional language regarding the creation of a communications network between state and federal officials and the maximization of federal funds was included at the end of the opening intent clause found in s. 14.23, F.S., and in s. 216.151, F.S., as part of House Bill 1683. The ultimate purpose of the additional language is explained at the end of s. 216.151(6)(d), F.S., where it states, "The express intent of the endeavors enumerated in this subsection shall be to secure a more equitable share of available federal revenues."

The closing clause of the legislative intent section, "Therefore, the mechanisms and resources created herein, for the furtherance of the state's intergovernmental efforts, shall include the Congressional Delegation and be available to meet its needs", has remained the same since its inclusion in the original legislation from 1977.⁸

Section 6 of Chapter 77-419 and Chapter 79-190, Laws of Florida make up the basis for the creation of the Office, as well as enumerating some of the specific responsibilities of the Office. The original law⁹ creating the Office placed its administrative home in the Executive Office of the Governor (EOG) and its physical home in Washington, D.C. The language also noted that the duties of the Office would be prescribed by the governor. The duties of the Office are found in the original legislation and remain the same in the current statute (s. 14.23(2)(b), F.S.) They are:

- Act as liaison between state and federal officials and agencies.
- Provide grant assistance to state agencies.
- Help develop and implement strategies for our state's intergovernmental efforts.
- Facilitate the activities of Florida officials traveling to Washington, D.C. on official business.

⁵ <http://www.sso.org/>

⁶ Information on file provided by Florida Office of Economic and Demographic Research

⁷ <http://www.osfr.state.tx.us/>

⁸ Senate Bill 43-B, 1977

⁹ Chapter 77-419, Laws of Florida

In addition to the duties created for the Office in s.14.23, F.S., s. 216.151(6), F.S., lists four general duties of the EOG in relation to the Office of State-Federal Relations. Those duties were added in 1995 through passage of HB 1683, and they are:

- Evaluate current levels of federal funding to determine how Florida can get a more equitable portion.
- Develop a federal aid database in order to catalog existing federal formulas and to identify funding inequities.
- Establish a federal formula modeling capability (if resources are available) that will allow Florida to evaluate federal legislation that involves financial assistance to state or local governments.
- Develop and Implement a communications network that links the EOG, the Florida Legislature, and Florida's Congressional Delegation to each other.

Even though the intent and duties regarding the Office have changed over the years, the most significant changes to the staff and governance of the Office would come soon after the Office's original creation.

In 1979, as part of House Bill 1604, the provisions of the Office's creation were changed to provide much greater oversight and involvement by the Florida Legislature. Section 14.23(2)(a), F.S., notes that the Office is to represent the executive and legislative branches of state government, and the Legislature is to have direct access to the staff of the Office. Also, as it relates to the duties of the Office, s. 14.23(2)(b), F.S., now requires the governor to consult with the Speaker of the House of Representatives and the President of the Senate when determining those duties.

House Bill 1604 also changed s. 14.23(2)(c), F.S., to create the position of Director in the Office of State-Federal Relations. The statute provides for the Director to be appointed by and serve at the pleasure of the governor.

Under the administration which served during Fiscal year 2010-2011, and when fully staffed, the Office of State-Federal Relations had six Full Time Equivalent (FTE) positions. Though some of these positions were not filled for parts of 2010, for portions of that year, the Office was fully staffed.

Included among these positions were a director and one other policy advisor funded directly through the EOG budget. Those positions are included in the overall EOG funds budgeted for the Office. The total EOG allotments for the Office in FY 2010-11 are \$394,320 for Salary and Benefits and \$170,697 in leased office space and other minor expenses¹⁰.

To complete the complement of six FTE's, there are four FTE's funded by individual state agencies. The following is a list of those agencies and the amount provided for personnel and/or lease contributions in FY 2010-11:¹¹

Agency	Salary	Benefits	Lease Contribution	Total
Agency for Workforce Innovation (AWI)	\$45,000	\$14,663	\$0	\$59,663
Agency for Health Care Administration (AHCA)	\$70,269	\$26,971	\$0	\$97,240
Department of Environmental Protection (DEP); Water Management Districts; and the Florida Fish and Wildlife Conservation Commission (FWCC)	\$55,000	\$15,000	\$14,299	\$84,299
Department of Transportation (DOT)	\$45,173	\$15,810	\$0	\$60,983
All Agencies	\$215,442	\$72,444	\$14,299	\$302,185

¹⁰ Information provided by EOG

¹¹ Information in table on following page provided by individual agencies

Budgeted expenditures from all sources for the Office of State-Federal Relations in FY 2010-11 totaled \$867,202.

In order to attain budget and personnel information regarding the Office, contact with six different sources is necessary (Office of State-Federal Relations, EOG, AWI, AHCA, DEP, and DOT) because budgeting and personnel decisions are made among as many as ten separate state agencies and the EOG. Further, there are no measures by which the Legislature can determine if the Office and the EOG are complying with the provisions of s. 14.23, F.S. or s. 216.151, F.S.

Effect of Proposed Changes

This bill requires the Florida Office of State-Federal Relations to create and submit an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate each year by January 1. The report is to include details of the Office's budget, personnel and activities.

This report may provide the EOG and the Office with the means of complying more closely with their responsibilities as found in s. 14.23, F.S. and 216.151, F.S. It may also assist the executive and legislative branches of state government in their desire to work more closely with their federal counterparts in Florida's Congressional Delegation as well as federal agencies to ensure equitable treatment of Florida in funding and policy decisions.

B. SECTION DIRECTORY:

Section 1. Amends s. 14.23, F.S., requiring a report to the EOG and Legislature regarding the budget, personnel, and activities of the Office of State-Federal Relations.

Section 2. Provides and effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

While there is no direct expenditure relating to the required report, it will likely require a moderate investment in staff time and effort to complete.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

PCB FAS 11-01

ORIGINAL

2011

1 A bill to be entitled
 2 An act relating to the Office of State-Federal Relations;
 3 amending s. 14.23, F.S.; requiring the Office of State
 4 Federal Relations to submit an annual report; providing an
 5 effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:
 8

9 Section 1. Section 14.23, Florida Statutes, is amended to
 10 read:

11 14.23 State-Federal relations.—

12 (1) LEGISLATIVE INTENT.—It is the intent of the
 13 Legislature to establish mechanisms through which the
 14 legislative and executive branches of state government can work
 15 together in a cooperative alliance, to strengthen the state's
 16 relationship with our Congressional Delegation and with federal
 17 executive branch agencies, to improve our position in relation
 18 to federal legislative initiatives which have a fiscal impact or
 19 substantive policy impact on the state, and to establish and
 20 maintain a viable network and communications structure to
 21 facilitate the transmittal of essential information between
 22 state and federal officials, and to take all necessary steps to
 23 maximize the receipt of various federal funds by the State of
 24 Florida. Florida's Congressional Delegation is, in this regard,
 25 the most important linkage in representing Florida's interests
 26 in the nation's capital. Therefore, the mechanisms and resources
 27 created herein, for the furtherance of the state's
 28 intergovernmental efforts, shall include the Congressional

PCB FAS 11-01

ORIGINAL

2011

29 | Delegation and be available to meet its needs.

30 | (2) CREATION OF THE OFFICE OF STATE-FEDERAL RELATIONS.—

31 | (a) There is created, within the Executive Office of the
 32 | Governor, the Office of State-Federal Relations for the State of
 33 | Florida, hereinafter referred to as the "office," to be located
 34 | in Washington, D.C. The office shall represent both the
 35 | legislative and executive branches of state government. The
 36 | Legislature shall have direct access to the staff of the office.

37 | (b) The duties of the office shall be determined by the
 38 | Governor, in consultation with the President of the Senate and
 39 | the Speaker of the House of Representatives, and shall include,
 40 | but not be limited to, the following:

41 | 1. To provide legislative and administrative liaison
 42 | between state and federal officials and agencies and with
 43 | Congress.

44 | 2. To provide grants assistance and advice to state
 45 | agencies.

46 | 3. To assist in the development and implementation of
 47 | strategies for the evaluation and management of the state's
 48 | federal legislative program and intergovernmental efforts.

49 | 4. To facilitate the activities of Florida officials
 50 | traveling to Washington, D.C., in the performance of their
 51 | official duties.

52 | (c) The head of the office shall be the director, who
 53 | shall be appointed by and serve at the pleasure of the Governor.

54 | (3) COOPERATION.—For the purpose of centralizing the
 55 | state-federal relations efforts of the state, state agencies and
 56 | their representatives shall cooperate and coordinate their

57 | state-federal efforts and activities with the office. State
 58 | agencies which have representatives headquartered in Washington,
 59 | D.C., are encouraged to station their representatives in the
 60 | office.

61 | (4) ANNUAL REPORT

62 | By January 1 of each year, the office shall submit an annual
 63 | report to the Governor, the President of the Senate, and the
 64 | Speaker of the House of Representatives detailing the office's
 65 | budget, personnel, and activities.

66 | (5) (a) ~~(4) (a)~~ NOMINATIONS TO FEDERAL REGIONAL FISHERIES
 67 | MANAGEMENT COUNCILS.—The Governor is prohibited from nominating
 68 | for appointment to any one of the federal fisheries management
 69 | councils established under 16 U.S.C. ss. 1801 et seq., as
 70 | amended, the name of any person who is, or who has been at any
 71 | time during the 24 months preceding such nomination, a lobbyist
 72 | for any entity of any kind whatsoever whose interests are or
 73 | could be affected by actions or decisions of such fisheries
 74 | management councils.

75 | (b) For purposes of this section, the term "lobbyist"
 76 | means any natural person who is required to register pursuant to
 77 | s. 11.045 or the equivalent federal statute and who, for
 78 | compensation, seeks, or sought during the preceding 24 months,
 79 | to influence the governmental decisionmaking of a reporting
 80 | individual or procurement employee, as those terms are defined
 81 | under s. 112.3148, or his or her agency, to encourage the
 82 | passage, defeat, or modification of any proposal or
 83 | recommendation by such reporting individual or procurement
 84 | employee or his or her agency.

PCB FAS 11-01

ORIGINAL

2011

85

Section 2. This act shall take effect July 1, 2011.