

## **FINAL BILL ANALYSIS**

**BILL #:** SB 2156

**FINAL HOUSE FLOOR ACTION:**

81 Y's 35 N's

**SPONSOR:** Budget (Rep. Legg)

**GOVERNOR'S ACTION:** Approved

**COMPANION BILLS:** HB 7247

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### **SUMMARY ANALYSIS**

SB 2156 passed the House on May 6, 2011. The bill also includes portions of HB 7217 and CS/CS/CS/HB 1309. The bill was approved by the Governor on June 14, 2011, chapter 2011-142, Laws of Florida, and becomes effective July 1, 2011. The bill creates the Department of Economic Opportunity to have oversight and coordination of economic development, housing, growth management, community development programs, workforce, and unemployment compensation. The bill establishes the executive director as head of the department. The executive director is appointed by the Governor and subject to confirmation by the Senate. The bill establishes the following divisions in the department: Division of Strategic Business Development, Division of Community Development, Division of Workforce Services, and Division of Finance and Administration.

The bill consolidates the current public-private partnerships under the direction of one board—Enterprise Florida, Inc. The bill consolidates the Florida Black Business Investment Board and the Florida Sports Foundation into Enterprise Florida, Inc. The bill establishes that the 12-appointed private sector board members of Enterprise Florida, Inc., are the board of directors for Space Florida. The bill maintains VISIT Florida as an independent direct support organization, and directs EFI to contract with VISIT Florida for tourism-related services in the state. Enterprise Florida, Inc., is designated as the primary economic development agency for the state.

To streamline the incentive process, the bill requires EFI and the department to work cooperatively through the project application process and approval process. Incentives for economic development projects must be approved or denied within 10 days of submitting an application to the department.

The bill redirects documentary stamp tax revenues to the State Economic Enhancement and Development Trust Fund beginning in 2012.

To address the negative economic impacts of the Deepwater Horizon oil spill, the bill provides waivers for job, wage, and other requirements for businesses seeking economic development incentives in the following counties: Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, and Wakulla. The bill provides additional relief to encourage economic development in the region, including a \$10 million per year appropriation for three fiscal years to develop and implement a strategic plan in these counties.

The bill abolishes the Florida Energy and Climate Commission within the Governor's Office and transfers the powers, duties, and functions of the commission to the Department of Agriculture and Consumer Services. The bill also requires the Department of Management Services to coordinate energy conservation programs of all state agencies.

The following additional transfers are made:

- The Office of Early Learning is transferred to the Department of Education as a separate and independent entity.
  - The bill requires the Auditor General to conduct a financial and performance audit of the Office of Early Learning and the early learning programs. The audit report is due by December 31, 2011.
- The Division of Emergency Management is transferred to the Executive Office of the Governor.
- The Florida Building Commission is transferred to the Department of Business and Professional Regulation.
- The Florida Communities Trust and the Stan Mayfield Working Waterfronts programs are transferred to the Department of Environmental Protection.
- Duties of petroleum allocation from the Florida Energy and Climate Commission are transferred to the Division of Emergency Management.
- Energy emergency contingency plans are transferred to the Division of Emergency Management.
- The administration of the Coastal Energy Impact Program is transferred to the Department of Environmental Protection.
- The Ready to Work Certification Program is transferred from the Department of Education to the Department of Economic Opportunity.

The bill merges all current programs and functions from the Office of Tourism, Trade and Economic Development, the Agency for Workforce Innovation, and the Department of Community Affairs into other departments and these governmental entities are repealed.

The bill amends statutes to conform changes made by the act, conforms cross-references, and deletes obsolete provisions.

The bill is effective July 1, 2011, however the government reorganization will be completed October 1, 2011, and the consolidation of the public-private partnerships will be completed December 31, 2011.

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

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### CURRENT SITUATION

##### **Office of Tourism, Trade, and Economic Development**

The Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor assists the Governor in formulating policies and strategies designed to provide economic opportunities for all Floridians. OTTED provides executive direction and staff support to develop policies and advocate for economic diversification and improvements in Florida's business climate and infrastructure. Economic development programs are implemented by public/private partnerships under OTTED's oversight.

Florida has a number of economic development incentive programs used to recruit industry to Florida, or to persuade existing businesses to expand their operations in the state. Some of the specific financial incentive programs administered by OTTED are:

- Qualified Target Industry Tax Refund Program (QTI) – s. 288.106, F.S. This is a tax refund program providing refunds of seven state taxes and the local ad valorem tax for businesses that create higher-paying, higher-skilled jobs for Floridians. There are eight categories of target industry sectors.<sup>1</sup>
- Quick Action Closing Fund – s. 288.1088, F.S. This incentive, known as QAC, is a grant to target industries whose projects are anticipated to achieve a \$5 to \$1 payback ratio; it is used to “close the deal” with a prospective new or expanding business.
- Economic Development Transportation Fund (Road Fund) – s. 288.063, F.S. This incentive is funded by a transfer from the State Transportation Trust Fund. The Road Fund is used to assist local governments in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company.
- Qualified Defense Contractor and Space Flight Business Tax Refund Program – s. 288.1045, F.S. This tax refund program is available to space flight businesses that have contracts with the Federal government, or a defense-related facility, and who agree to create jobs. Pre-approved applicants may receive tax refunds of \$3,000 per net new full-time equivalent job created or retained, and \$6,000 in an enterprise zone or rural county for every net new full-time equivalent job created or retained. An additional \$1,000 per job is available for businesses paying 150 percent of the average annual wage, and an additional \$2,000 per job is available for businesses paying 200 percent of the average annual wage. A qualified applicant may not receive more than \$2.5 million in tax refunds in any fiscal year.
- Capital Investment Tax Credit – s. 220.191, F.S. This tax credit provides eligible corporations with an annual credit on their corporate income tax liability over a 20-year

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<sup>1</sup> The categories are clean tech; life sciences; information technology; aviation/aerospace; homeland security/defense; financial/professional services; emerging technologies; other manufacturing; and corporate headquarters. See Enterprise Florida, Inc., Florida Industry Clusters, for more detailed descriptions, available at <http://www.eflorida.com/ContentSubpageFull.aspx?id=52> (last visited 3/28/2011).

period. The credit is based on a company's capital investment and is taken against the income arising from the project. Typically, a corporation must make a substantial investment in land, facilities, and equipment to qualify for the program. According to the Department of Revenue, \$11.75 million in tax credits were claimed in 2009 through this incentive program. As of December 2010, there are 18 active projects, whose owners have committed to make total cumulative capital investments of \$2.45 billion in Florida.

- Rural Community Development Revolving Loan Fund – s. 288.065, F.S. This provides long-term loans, loan guarantees, or loan-loss protection for rural counties or economic-development agencies substantially underwritten by rural governments, to pay primarily for infrastructure needed to attract economic development. Since 1997, 16 loans totaling \$5.62 million have been made.
- Florida Enterprise Zone Program – ss. 290.001 – 290.016, F.S. This program provides 11 different tax credits and tax exemptions for businesses (and non-business property owners, where applicable) to create jobs and make investments in economically distressed or poverty-stricken areas of the state designated by the Legislature as enterprise zones. OTTED oversees the program by approving the required documents after legislative creation of a zone, and by approving boundary changes. Businesses may receive corporate tax credits, or sales and use tax credits, refunds, or exemptions, based on the criteria established in statute for the 11 different incentives available for enterprise zones. There are 59 enterprise zones in Florida, each of which is managed by a local coordinating board selected by the applicable county or city commission.
- Rural and Urban Job Tax Credits – ss. 212.097, 212.098, and 220.1895, F.S. These tax credits are awarded based on the industry sector and the number of new employees the business project commits to hiring. The tax credits are administered through the Department of Revenue. According to Enterprise Florida, Inc., in 2009, nine businesses received \$204,000 in rural job tax credits for creating 204 jobs, while 19 businesses received tax credits totaling \$855,000 under the urban program for creating 803 jobs.
- Brownfield Redevelopment Bonus – s. 288.107, F.S. This program provides tax refunds for businesses that locate or expand in “brownfield” areas, which typically, but not in all cases, had industrial activity that led to groundwater and soil contamination. Some areas have been cleaned up so that it is safe again for commercial activity. The bonus is up to \$2,500-per-new job created. If an eligible business is in a target industry sector, it may also receive QTI tax refunds; if not a targeted industry, the business must make at least a \$500,000 investment if the site does not require cleanup or a \$2 million investment if cleanup is necessary, and hire at least 10 new employees. In FY 2009-10, there were 15 businesses approved to take advantage of both brownfield incentive programs, committing to create about 1,800 jobs and investing more than \$158 million in their operations.
- Economic Gardening Technical Assistance Pilot Program – s. 288.1082, F.S. This program, also called GrowFL, provides eligible companies with training and outreach for their infrastructure, networking, and mentoring needs. In the first year, 35 businesses were selected for the program. The technical assistance program received \$1.5 million in the initial appropriation in FY 2009-10 and \$1 million in FY 2010-11.

- High Impact Performance Incentive Grants – s. 288.108, F.S. This grant is for businesses representing the following industry sectors – clean energy, life sciences, financial services, corporate headquarters, transportation equipment manufacturing, and semiconductor manufacturing. Eligible businesses must make a capital investment of at least \$50 million and create at least 50 new jobs, although the thresholds for businesses engaged in research and development are half those amounts. The Legislature did not appropriate any funds for HIPI grants because there were no applicants in FY 2009-10. But since the program began in 1997, there have been eight projects approved for businesses who committed to invest \$472 million in Florida and create 1,745 jobs with average annual wages of \$52,246.

#### Incentive Process

Pursuant to s. 288.061, F.S., standard timelines exist for economic development incentive applications. The statute requires the following:

- Within 10 days after receiving an application, EFI shall determine whether it is complete.
- After the application is deemed complete, EFI has 10 business days to recommend approval or disapproval to OTTED.
- Within 10 calendar days of receiving the application, OTTED must determine whether the application is complete.
- Within 22 calendar days of receiving the recommendation, OTTED shall issue a letter to the applicant to approve or disapprove the application.

#### Rural Designations

The Rural Economic Development Initiative (REDI) was created by the Florida Legislature to encourage and align critical state agency participation and investment around important rural issues and opportunities.<sup>2</sup> Included in this broad initiative is the Rural Area of Critical Economic Concern (RACEC) designation.<sup>3</sup> Most of Florida's rural counties have been categorized into one of three RACECs: the North Central, the Northwest, and the South Central<sup>4</sup>. 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 area in need of economic development. One of the benefits of the designation is that the Governor may waive requirements for the Qualified Target Industry Tax Refund Program, the Quick Response Training Program, and other incentives.

#### *Public/Private Partnerships*

As part of its role, OTTED oversees the activities of several public-private partnerships created by law to encourage private sector participation and leadership in increasing trade, job creation, and critical industry development in Florida. Each partnership focuses on a unique area of economic program development. The current public-private partnerships are:

- Enterprise Florida, Inc., (EFI) serves as Florida's statewide economic development organization;

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<sup>2</sup> Section 288.0656, F.S.

<sup>3</sup> Section 288.0656(7), F.S.

<sup>4</sup> The South Central RACEC recently expired. It has been recommended by REDI to redesignate the area as a RACEC and its application is under review by the Office of Tourism, Trade, and Economic Development.

- Florida Black Business Investment Board, Inc., assists in developing and expanding black business enterprises and advises OTTED in the oversight of the Black Business Loan Program;
- Space Florida promotes and develops space-related economic development and education in Florida;
- Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation d/b/a/ VISIT Florida oversees the state's tourism efforts and markets and facilitates travel to and within Florida for the benefit of its residents, economy, and travel and tourism industries;
- Florida Sports Foundation, Incorporated – serves as the official sports promotion and development organization for the State of Florida.

While part of OTTED, the Office of Film and Entertainment is a special unit that operates semi-autonomously from OTTED that develops and expands the state's motion picture and entertainment industry sectors and promotes and markets Florida as a production and filming location.

## **Background on EFI and OTTED**

### Creation of EFI

One of the early initiatives of Governor Lawton Chiles was the evaluation in 1991 of the executive agency governance structure. Chiles' transition task forces and "Government by the People Commission" developed a set of wide-ranging recommendations on agency mergers and realignment. One idea that grew from these discussions was creation of a lead entity, representing both the public and private sectors, to coordinate the state's economic development programs and policies. The idea coalesced as "Enterprise Florida," and a 1991 report drafted by the Florida Chamber of Commerce and the Florida Department of Commerce (FDC) detailed why such an entity was necessary and how it could be fully implemented within 3 years.

The report noted EFI would not duplicate the FDC, but that the department's units responsible for marketing, research, business assistance, and administrative functions would be transferred, over a 3-year-period, to EFI. When fully implemented, this new "public-private partnership" was envisioned to act as a catalyst for economic development in Florida, a broker for recruiting new businesses and retaining existing ones, and a coordinator for specialized entities—such as bond financing for business infrastructure or investment in new technologies—that would be at the core of efforts to diversify Florida's economy.

EFI was created by the Legislature in 1992. The only two duties enumerated in the new law were assisting in the coordination of the state's economic development efforts and developing a state strategic plan for economic development by December 1, 1993. EFI was to be governed by a 21-member board of directors, of which 12 were private citizens appointed by the Governor from a list submitted initially by the Enterprise Florida Nominating Council, and subsequently by the EFI board. These 12 members were subject to Senate confirmation. The other nine members were: the Governor, the Lieutenant Governor, the Commissioner of Education, the Chancellor of the State University System, the executive director of the State Community College System, the Secretary of Commerce, the Secretary of Labor and Employment Security, or their designees; a member of the Florida Senate; and a member of the Florida House of Representatives.

The next major statutory changes for EFI occurred in 1996. The legislation abolished the FDC and formally recognized EFI as the state's lead economic development entity and broadened its responsibilities. EFI was charged with developing policies and implementing strategies to:

- Support Florida's existing businesses and recruit new businesses worldwide to Florida;
- Seek to bolster international trade opportunities;
- Develop a comprehensive approach to workforce development; and
- Promote economic opportunities for rural communities and small or minority businesses.

The 1996 legislation also addressed funding for EFI. Consistent with the intent of creating a public-private partnership, operational funding would be shared with the private sector. Specifically, the law required an incremental increase in private funding to EFI operations, from 10 percent of state appropriations in FY 1996-97 to 50 percent of state appropriations by FY 2000-01. The Legislature in 1999 specified what qualified as private-sector support, the various categories of required support, and the overall ratio or match of the support – no less than 100 percent of the state's operating investment. The latest significant legislative changes affecting EFI occurred in 2007, with the creation of the Florida Opportunity Fund, and in 2010, when the Florida Development Finance Corporation program was amended to allow it to leverage federal funds to issue debt for specific energy-related projects.

EFI currently is governed by a 19-member appointed board of directors. The Governor appoints six private-sector members to the board, and the Senate President and the Speaker of the House of Representatives appoint three each. The public-sector members are the Governor, the Commissioner of Education, the state's Chief Financial Officer, the Secretary of State, the chair of the Workforce Florida, Inc., board of directors, or their designees; a member of the Florida Senate as ex officio; and a member of the Florida House of Representatives as ex officio. In addition, the board may allow additional at-large members. As of Jan 11, 2011, the Enterprise Florida Inc., board of directors included 32 at-large members.

#### Creation of OTTED

In the 1996 legislation that officially abolished FDC, OTTED was created to perform what had been FDC's governance functions, such as providing contractual oversight of EFI and other public-private partnerships under contract.

The newly created OTTED was directed to contract with EFI to "guide, stimulate, and promote the economic and trade development of the state." OTTED was given control of the Economic Development Trust Fund, where the Legislature would deposit appropriations for the various incentive programs.

#### **Department of Community Affairs**

The Department of Community Affairs (DCA) is the state's land planning and community development agency. In general, DCA performs the following functions:<sup>5</sup>

- The Division of Community Planning works closely with local governments and other state agencies to administer Florida's growth management programs. These programs include the Local Government Comprehensive Planning Program, the Developments of Regional Impact Program, and the Areas of Critical State Concern Program, which

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<sup>5</sup> The Florida Legislature, Office of Program Policy Analysis and Government Accountability, Sunset Review, *Department of Community Affairs Overview*, Report No. 08-S06, Dec. 2008, available at, <http://www.oppaga.state.fl.us/monitordocs/reports/pdf/08-S06.pdf>.

protects resources of major statewide significance. It is the activities within this division that relate to the department's role as the state land planning agency.

- The Division of Housing and Community Development administers state and federal programs designed to provide community and economic development assistance to agencies at the local level. The division provides grants to eligible local governments for infrastructure, revitalization, disaster recovery, housing rehabilitation, energy assistance, and economic development, and assists citizens with meeting critical needs such as housing, transportation, and emergency utility payments.

The Small Cities Community Development Block Grant Program administers an annual federal award designed to assist small or rural local governments that are not included as part of the U.S. Department of Housing and Urban Development's Urban Entitlement Program. Projects must benefit low-to-moderate income citizens. Awards are made in four categories: commercial revitalization (downtown improvements); economic development (job creation); housing rehabilitation; and neighborhood revitalization (infrastructure).

The division staffs the Florida Building Code Commission, which implements and regulates the unified statewide code for all buildings and structures in Florida. The division administers the Special District Information Program.

This division also administers the Florida Communities Trust, which is a state land acquisition grant program providing funding to local governments and eligible non-profit environmental organizations for the acquisition of community-based parks, open space and greenways that further both outdoor recreation and natural resource protection needs identified in local government comprehensive plans.

- The Division of Emergency Management (DEM) directs and coordinates state, federal, and local efforts to deal with natural disasters, such as tornadoes and hurricanes, as well as man-made disasters and accidents. DEM is administratively housed within DCA, but is a separate budget entity and is not subject to control, supervision, or direction by DCA. However, DCA is responsible for providing DEM with finance and accounting, budgeting, personnel, purchasing, legal, inspector general, and information technology services.
- The Florida Housing Finance Corporation is a public corporation that works to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes by stimulating the investment of private capital and encouraging public and private sector housing partnerships. The corporation is a separate budget entity and is not subject to control, supervision, or direction by DCA. The corporation is governed by a nine-member board of directors, which includes the secretary of DCA as an ex officio voting member, and eight members appointed by the Governor.<sup>6</sup>

## **Agency for Workforce Innovation**

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<sup>6</sup> The Florida Legislature, Office of Program Policy Analysis and Government Accountability', Sunset Review, *Florida Housing Finance Corporation Overview*, Report No. 09-S15, Jan. 2009, available at <http://www.oppaga.state.fl.us/monitordocs/reports/pdf/09-S15.pdf>.

The Agency for Workforce Innovation (AWI) was created by the Workforce Innovation Act of 2000 in an effort to better connect the state's economic development strategies with its workforce development system.<sup>7</sup>

The responsibilities of AWI include workforce services, unemployment compensation services, and early learning services.

#### Workforce Services and Workforce Florida, Inc.

AWI is Florida's lead state workforce agency. However, Workforce Florida, Inc., (WFI) sets the state's workforce development policy and guidance. Workforce services in Florida are provided by 24 regional workforce boards who deliver services through 90 One-Stop Career Centers around the state.

WFI is a nonprofit corporation providing state-level policy, planning, performance evaluation, and oversight to AWI and the 24 regional workforce boards. AWI is responsible for implementing WFI's policies. AWI assists WFI in developing and disseminating policies, providing technical assistance, and monitoring a variety of workforce programs.

AWI is the state agency which receives federal funds for employment-related programs, such as Welfare to Work, Temporary Assistance to Needy Families, and the Workforce Investment Act, and distributes these funds to the state's 24 regional workforce boards. AWI also monitors regional workforce board and One-Stop Career Center activities to ensure they comply with federal and state requirements.

Each regional workforce board develops a local plan for using the funds provided by AWI and oversees workforce development activities in the region. Each board operates under a performance contract with AWI. The boards also select contractors to operate local One-Stop Career Centers. The One-Stop Career Centers deliver employment services to job seekers and employers.

WFI also sets the policy for the Welfare Transition Program. This program helps families currently on welfare become employed and economically self-sufficient; helps prevent at-risk families from going on welfare; and assists former welfare recipients who have recently entered the workforce retain their jobs and upgrade their skills.

#### Unemployment Compensation (UC) Services

AWI is the current agency responsible for administering Florida's UC laws.<sup>8</sup> The Workforce Innovation Act of 2000 required AWI to contract with the Department of Revenue to provide unemployment tax collections services.<sup>9</sup>

AWI administers Florida's UC laws through its Office of Unemployment Compensation Services.<sup>10</sup> The Office of Unemployment Compensation Services consists of the Unemployment Compensation Benefits Section, the Benefits Payment Control Section, and the Office of Appeals. The Unemployment Compensation Benefits Section handles initial claims, questions about unemployment benefits, and other related issues. The Benefits Payment Control Section monitors the payment of unemployment benefits in an effort to detect and deter overpayment

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<sup>7</sup> Chapter 2000-165, L.O.F. See staff analysis for SB 2050 and HB 1135 (2000).

<sup>8</sup> Sections 20.50 and 443.171, F.S.

<sup>9</sup> The contract requirement and the duties of DOR were clarified by ch. 2003-36, L.O.F.

<sup>10</sup> Section 20.50(2)(c)1., F.S.

and to prevent fraud. The Office of Appeals holds hearings and issues decisions to resolve disputed issues related to eligibility and claims for unemployment compensation and the payment and collection of unemployment compensation taxes. The Office of Unemployment Compensation Services also administers special unemployment compensation programs, such as disaster unemployment assistance, trade adjustment assistance, and UC for ex-service members and federal civilian employees.<sup>11</sup>

The Unemployment Appeals Commission is administratively housed in AWI, but is a quasi-judicial administrative appellate body independent of AWI.<sup>12</sup> The commission consists of a three member panel appointed by the governor. It is the highest level for administrative review of contested unemployment cases decided by the Office of Appeals referees. The Unemployment Appeals Commission can affirm, reverse, or remand the referee's decision for further proceedings. A party to the appeal who disagrees with the commission's order may seek review of the decision in the Florida district courts of appeal.<sup>13</sup>

#### Early Learning Services – School Readiness and Voluntary Pre-Kindergarten

AWI's Office of Early Learning is responsible for implementation of the state's child care resource and referral, school readiness, and voluntary prekindergarten (VPK) programs:

- School Readiness programs are required to provide the elements necessary to prepare at-risk children for school, including health screening and referral, and an appropriate educational program. These programs are designed to be developmentally appropriate, research-based, involve parents as their children's first teachers, serve as preventive measures for children at risk of future school failure, enhance the educational readiness of eligible children, and support family education. Section 411.01, F.S., provides requirements for implementing the school readiness program.
- Voluntary Prekindergarten provides a free, voluntary prekindergarten education for every Florida child 4 years of age. The state's VPK program is intended to increase children's chances of achieving future educational success and must be developmentally appropriate. Sections 1002.51-1002.79, F.S., provide requirements for implementing and assessing the VPK program.

The early learning program is designed with the Agency for Workforce Innovation, the Department of Education, and the Department of Children and Families each having a role related to implementing the programs. AWI is responsible for adopting and maintaining coordinated programmatic, administrative, and fiscal policies and standards for all early learning programs. DOE is responsible for establishing readiness standards and guidelines for VPK program content. The Department of Children and Families is responsible for the licensing and credentialing of early learning providers. In addition, 31 local early learning coalitions plan, coordinate, and implement the early learning programs, following the standards and guidelines established by AWI and DOE.

#### **Ready to Work Certificate in Department of Education**

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<sup>11</sup> Information found at <http://www.floridajobs.org/unemployment/index.html> (last visited 3/25/2011).

<sup>12</sup> Section 20.50(2)(d), F.S. "The Unemployment Appeals Commission, authorized by s. 443.012, F.S., is not subject to control, supervision, or direction by the Agency for Workforce Innovation in the performance of its powers and duties but shall receive any and all support and assistance from the agency that is required for the performance of its duties." The Unemployment Appeals Commission is 100 percent federally funded.

<sup>13</sup> Section 443.151(4)(c), (d), and (e), F.S.

The Florida Ready to Work program tests and scores job skills and work habits. An individual participating in the program can pass course work that provides a Ready-to-Work Credential that can then be used to help find work with prospective employers. To earn the credential, the participant must take three proctored assessments: applied mathematics, locating information, and reading for information.

### **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.<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup> 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.<sup>17</sup> Subsequently Charlotte, Lee, Collier, Monroe, Dade, Broward, and Palm Beach counties were added to the declaration.<sup>18</sup>

### **History of the Florida Energy and Climate Commission / State Energy Office**

In response to the energy crisis in the 1970s, the State Energy Office was established by the Legislature in 1975. Over the years, it has been housed in the Department of Administration, the Department of Community Affairs, the Department of Environmental Protection, and, most recently, the Executive Office of the Governor.

In 2006, the Legislature established the Florida Energy Commission, as an arm of the Legislature, to develop recommendations for legislation to establish a state energy policy. The recommendations of the commission were to be based on the guiding principles of reliability, efficiency, affordability, and diversity.<sup>19</sup>

During the 2007 Legislative Session, the issue of fragmentation of energy policy governance began to be raised. At that time, there were many public sector entities playing a role in developing, implementing, or coordinating some aspect of Florida's energy policies: the Florida Energy Office within the Department of Environmental Protection, the Department of Community

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<sup>14</sup> Rig Disaster: Timeline, *Wall Street Journal*, <http://online.wsj.com/article/SB10001424052748704302304575213883555525958.html>, (last visited 03/27/2011).

<sup>15</sup> 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)

<sup>16</sup> Fla. Exec. Order No. 10-99, April 30, 2010.

<sup>17</sup> Fla. Exec. Order No. 10-100, May 3, 2010.

<sup>18</sup> Fla. Exec. Order No. 10-106, May 20, 2010.

<sup>19</sup> Former s. 377.901(5), F.S.

Affairs, the Florida Building Commission, the Department of Agriculture and Consumer Services, the Department of Management Services, the Department of Financial Services, the Public Service Commission, the Florida Energy Commission, and a host of colleges and universities.

To begin addressing the fragmentation issue, the 2007 Legislature passed CS/HB 7123, which included the creation of a 12-member Energy Policy Governance Task Force to study and recommend a unified approach to developing and implementing the state's energy policies. The bill, however, was vetoed by Governor Crist on June 20, 2007, and the task force was not created.

Subsequent to the veto, in its 2007 report, the Florida Energy Commission noted,

What does need to occur is the deletion of redundancies and streamlining of the process to create a smooth flow of responsibilities with accountability across agencies or entities with a strong focus on effectiveness. The new commission would be the State's premier energy policy formulating board, making recommendations to the Governor and the Legislature and implementing the programs statutorily assigned to it.<sup>20</sup>

In response to this recommendation and others, in 2008, the Legislature established the Florida Energy and Climate Commission (Commission or FECC) as the state entity for recommending, implementing, and coordinating Florida's energy policy and for coordinating all federal energy programs delegated to the state. The measure, in effect, merged the Department of Environmental Protection's Florida Energy Office with the Legislature's Florida Energy Commission and administratively placed the new entity within the Executive Office of the Governor.

The FECC is comprised of nine members: seven appointed by the Governor and one each by the Chief Financial Officer and the Commissioner of Agriculture, all subject to Senate confirmation. A member must be an expert in one or more of the following fields: energy, natural resource conservation, economics, engineering, finance, law, transportation and land use, consumer protection, state energy policy, or another field substantially related to the duties and functions of the Commission. By law, the Governor selects the chair of the Commission. These commissioners are not salaried employees, but are reimbursed per diem for travel, if needed.

In 2009, the Senate failed to confirm the membership of the Commission, which resulted in a provision being placed in the Implementing 2009-2010 General Appropriations Act (SB 2602) extending the term of office of each Commissioner until the 2010 Regular Session. In 2010, the Senate confirmed the membership of the Commission.

The Commission is required to meet at least six times a year and may employ staff and counsel, as needed. As of March 2011, the Commission has met or convened via conference-call approximately 31 times since its inception.

Pursuant to ss. 377.6015(5), 377.701, and 377.703(2) and (3), F.S., the Commission is charged with a variety of responsibilities, such as administering various grant programs and specific financial incentive programs; developing a fair and equitable petroleum allocation plan for the

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<sup>20</sup> 2007 Recommendations to the Florida Legislature Volume 1, Florida Energy Commission, 2007, p. 20.

state; performing or coordinating the functions of any federal energy programs delegated to the state and coordinating efforts to seek federal support for state energy activities; administering the Coastal Energy Impact Program; completing annual assessments of the efficacy of Florida's Energy and Climate Change Action Plan and providing recommendations to the Governor and the Legislature each year to improve the results; and developing, coordinating, and promoting a comprehensive research plan for state programs, consistent with state energy policy.

The Commission is required to serve as an advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions. The director of the Florida Energy Systems Consortium is directed to consult with and report to the FECC.<sup>21</sup> Further, the Commission is charged with helping Florida build an energy efficient economy through programs to encourage energy conservation and promote the use of alternative energy sources.

### *Effects of the American Recovery and Reinvestment Act of 2009 on the Commission*

In 2009, the federal government, through the American Recovery and Reinvestment Act of 2009 (ARRA) provided stimulus monies to qualifying states for energy-related programs.<sup>22</sup> Under the ARRA, Florida received approximately \$176 million to be administered by the Florida Energy and Climate Commission over a three-year period (2009-2012). This allocation was a substantial increase to the Energy Office programs which, prior to ARRA, had a recent (2006-2008) average funding level of approximately \$20 million.<sup>23</sup> In order to offer grants, rebates, and loans to residents and businesses throughout Florida, the Commission initiated over 18 programs and received program approval from the U.S. Department of Energy and funding authorization from the Florida Legislature to distribute the stimulus dollars.

According to the Commission, the Governor's Energy Office is in various stages of administering the ARRA-funded grant programs, which include the following processes that must be completed for each of the approximately 172 new grant awards:

- Application review and validation;
- Award approval and notification;
- Grant/contract development;
- Grant/contract execution; and
- Grant/contract implementation.

In addition, there are approximately 18 sub-grants currently open and being managed from previous funding cycles.<sup>24</sup>

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<sup>21</sup> In 2008, the Legislature created the Florida Energy Systems Consortium, pursuant to s. 1004.648, F.S., to promote collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state.

<sup>22</sup> [http://www.recovery.gov/About/Pages/The\\_Act.aspx](http://www.recovery.gov/About/Pages/The_Act.aspx)

<sup>23</sup> *Governor's Energy Office & Florida Energy & Climate Commission Agency Summary*, p. 15. Document can be accessed from the following Commission website: [http://myfloridaclimate.com/climate\\_quick\\_links/florida\\_energy\\_climate\\_commission/the\\_commission/meetings\\_and\\_workshops/january\\_14\\_2011\\_conference\\_call](http://myfloridaclimate.com/climate_quick_links/florida_energy_climate_commission/the_commission/meetings_and_workshops/january_14_2011_conference_call)

<sup>24</sup> Correspondence with Florida Energy and Climate Commission staff on March 10, 2011.

The Commission notes that the ARRA “also includes an unprecedented level of accountability and transparency reporting on both expenditures and results. These requirements have significantly increased the administrative workload for staff managing projects funded with ARRA grant dollars and have consumed significant management resources and time.”<sup>25</sup>

In the *Governor’s Energy Office and Florida Energy and Climate Commission Agency Summary*, which was released in January 2011, the Commission notes the following:

Prior to the American Recovery and Reinvestment Act of 2009 (ARRA), the focus and responsibilities of the Governor’s Energy Office<sup>26</sup> were primarily related to energy policy and legislation. With the recent allocation of over \$175 million in ARRA funding, the focus has changed and the primary role and function of the Energy Office is grant management.

#### *Energy-Related Programs within the Department of Agriculture and Consumer Services*

The Department of Agriculture and Consumer Services (DACS or Department) has programs whose purpose is to address energy and environmental issues. The Department administers the statutory Farm-to-Fuel Initiative “to enhance the market for and promote the production and distribution of renewable energy from Florida grown crops, agricultural wastes and residues, and other biomass and to enhance the value of agricultural products or expand agribusiness in the state.”<sup>27</sup> It administers the Florida Renewable Fuel Standard, which requires that all gasoline sold in the state, with exceptions, contain a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol, by volume.<sup>28</sup>

In 2006, the Legislature created the Farm-to-Fuel Grants Program within the DACS to provide matching grants for demonstration, commercialization, and research and development projects relating to bioenergy. In FY 07-08, the Legislature appropriated \$25 million for this program.

The Renewable Energy Technologies Grants Program (created in 2006 and originally administered by the Florida Energy Office within the Department of Environmental Protection), was expanded and renamed the Renewable Energy and Energy-Efficient Technologies Grants Program in 2008.<sup>29</sup> The program provides matching grants for demonstration, commercialization, and research and development projects relating to renewable energy technologies and innovative technologies that significantly increase energy efficiency for vehicles and commercial buildings. The provision stipulates that the FECC coordinate and actively consult with the Department of Agriculture and Consumer Services during the review and approval process of grants relating to bioenergy projects for renewable energy technology. A portion of appropriations for this program have exclusively been for bioenergy projects in FY 06-07 and FY 08-09.<sup>30</sup>

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<sup>25</sup> *Governor’s Energy Office & Florida Energy & Climate Commission Agency Summary*, p. 15. Document can be accessed from the following Commission website:

[http://myfloridaclimate.com/climate\\_quick\\_links/florida\\_energy\\_climate\\_commission/the\\_commission/meetings\\_and\\_workshops/january\\_14\\_2011\\_conference\\_call](http://myfloridaclimate.com/climate_quick_links/florida_energy_climate_commission/the_commission/meetings_and_workshops/january_14_2011_conference_call)

<sup>26</sup> The “Governor’s Energy Office” refers to the office that houses the staff that supports the Commission.

<sup>27</sup> Section 570.954, F.S.

<sup>28</sup> Sections 526.201-526.207, F.S.

<sup>29</sup> The Renewable Energy and Energy-Efficient Technologies Grants Program is currently administered by the FECC.

<sup>30</sup> In \$15 million with at least \$5 million required to fund bioenergy projects in FY 06-07 and \$15 million (\$7 million for renewable energy and energy-efficient technology projects and \$8 million for bioenergy projects) in FY 08-09.

In addition to the energy-related programs that the DACS currently administers, the Department also sponsors an annual Farm-to-Fuel Summit, in which “industry leaders in agriculture, energy, academia and government who want to make Florida a leader in the production of renewable energy” gather to share information and accelerate efforts to promote the production of renewable energy in the state.<sup>31</sup>

#### *Low-Income Home Energy Assistance Program within the Department of Community Affairs*

The Department of Community Affairs’ (DCA) Low-Income Home Energy Assistance Program (also known as LIHEAP) provides federal money directly to non-profit agencies and local governments so they can assist low-income families with home cooling and heating costs.<sup>32</sup> Specifically, the DCA:

- Applies for funding from the Federal Government and distributes it to local agency providers;
- Monitors local agency providers to ensure that they administer the funding in compliance with state and federal laws and rules; and
- Provides technical assistance to local agency providers to help them comply with the requirements.<sup>33</sup>

The DCA does not determine who qualifies for assistance.

Applicants must apply within the county they reside. Low-income families, for these purposes, are those whose total household income does not exceed the federal [household income limits](#) or are currently receiving the following assistance:

- Supplemental Security Income
- Food Stamps
- Applied for and are currently eligible for Community Services Block Grant.<sup>34</sup>

#### *Weatherization Assistance Program within the Department of Community Affairs*

The Department of Community Affairs’ Weatherization Assistance Program (program) provides grants to non-profit agencies, local governments, community action agencies, and Indian tribes to provide specific program services for low-income families in Florida;<sup>35</sup> however, the total household income may not be more than 200 percent above the national poverty level. The mission of the program is to reduce the monthly energy burden on low-income households by improving the energy efficiency of the home.

The program is funded annually by the U.S. Department of Energy and receives supplemental funding from the U.S. Department of Health and Human Services. As estimated by the U.S. Department of Energy, these services save the weatherization customers an average of \$358

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<sup>31</sup> <http://www.florida-agriculture.com/news/06-17-10.htm>

<sup>32</sup> <http://www.dca.state.fl.us/fhcd/liheap/index.cfm>

<sup>33</sup> <http://www.dca.state.fl.us/fhcd/liheap/index.cfm>

<sup>34</sup> <http://www.dca.state.fl.us/fhcd/liheap/LIHEAPInfo.cfm#appeal>

<sup>35</sup> Preference is given to elderly (60 years-plus) or physically disabled residents, families with children under 12, and households with repeated high utility bills (high energy burden).

annually and return an average of \$2.69 in energy and non-energy related benefits for every dollar invested.<sup>36</sup>

Types of assistance that the program provides include the following:<sup>37</sup>

- Address air infiltration with weather stripping, caulking, thresholds, minor repairs to walls, ceilings and floors, and window and door replacement;
- Install attic and floor insulation (floors in northern Florida counties only);
- Install attic ventilation;
- Apply solar reflective coating to manufactured homes;
- Install solar screens;
- Repair or replace inefficient heating and cooling units; and
- Repair or replace water heaters.<sup>38</sup>

## **EFFECT OF THE BILL:**

### Department of Economic Opportunity

The bill creates the Department of Economic Opportunity to provide coordination among state programs related to economic development, workforce development, community planning and development, and affordable housing. It provides that these programs are fully integrated by moving them under a single department for consistent implementation of policies and strategies. It establishes an executive director as head of the Department of Economic Opportunity, and provides that the executive director is appointed by the Governor and subject to confirmation by the Senate.

The purpose of the department is to assist the Governor in working with the Legislature, state agencies, local governments, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. To accomplish such purposes, the department shall:

- Provide linkages between economic development, workforce development, and community development goals;
- Promote community revitalization and affordable housing;
- Assist with coordination of community planning and development;
- Manage public-private partnerships;
- Assist, promote and enhance economic opportunities in the state's rural and urban communities;
- Promote coordinated and consistent implementation of programs; and
- Develop a strategic plan to recruit new businesses, and expand and retain business in this state.

The following divisions are established in the department:

- The Division of Strategic Business Development is responsible for analyzing business prospects for awards, administering economic incentive programs, assisting with an annual incentive report, and assisting with the development of a 5-year strategic plan.

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<sup>36</sup> <http://www.dca.state.fl.us/fhcd/wap/index.cfm>

<sup>37</sup> The extent of services to be provided depends on available funding.

<sup>38</sup> Id.

The strategic plan must address the promotion of business formation, expansion, recruitment and retention in order to create better jobs with higher wages for all geographic regions of the state, for disadvantaged communities, and for populations of the state, including rural areas, minority businesses, and urban core areas. This division will also house the Office of Film and Entertainment currently located within the Office of Tourism, Trade and Economic Development.

- The Division of Community Development is responsible for administering community programs including the community development block grant program, the local comprehensive planning process, the areas of critical state concern program, the development of regional impact program, the low-income home energy assistance program, the weatherization assistance program, the Front Porch Florida initiative, and other related programs.
- The Division of Workforce Services is responsible for coordinating with Workforce Florida, Inc., for developing and implementing workforce programs consistent with the federal Workforce Investment Act and the Wagner-Peyser Act. In addition, this division will oversee proper use of federal workforce funds, and implement unemployment compensation programs.
- The Division of Finance and Administration is responsible for providing administrative support for the department, including finance, budget and support for personnel matters.

The bill requires the department to:

- Submit an annual report on the condition of the business climate and economic development in the state, with assistance from Enterprise Florida, Inc., and Workforce Florida, Inc. The report must include identification of problems and a prioritized list of recommendations. The report will be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives.
- Establish annual performance standards for Enterprise Florida, Inc., Space Florida, and VISIT Florida, and report regularly to the Legislature on EFI's progress in meeting these performance measures through its annual report.

To this end, the bill merges current programs and functions, by type two transfers, from the Office of Tourism, Trade and Economic Development (OTTED), Agency for Workforce Innovation (AWI), and Department of Community Affairs (DCA) into the new Department of Economic Opportunity. In a type two transfer all powers, duties, functions, records, offices, personnel, support positions, contracts, rules, appropriations, and other funds are transferred in whole. The bill establishes the transition period for the following state government transfers to be completed by October 1, 2011.

The following programs and offices, and related trust funds, are transferred to the Department of Economic Opportunity:

- The Office of Tourism, Trade, and Economic Development currently in the Executive Office of the Governor.
- The Office of Unemployment Compensation currently in the Agency for Workforce Innovation.

- The Unemployment Appeals Commission currently in the Agency for Workforce Innovation.
- The Office of Workforce Services currently in the Agency for Workforce Innovation.
- Workforce Florida, Inc., currently in the Agency for Workforce Innovation for administrative support is transferred under the new department for continued administrative support.
- The Ready to Work Certification Program currently in the Department of Education.
- The Division of Housing and Community Development currently in the Department of Community Affairs.
- The Division of Community Planning currently in the Department of Community Affairs.
- The Florida Housing Finance Corporation is transferred and remains independent of the department.

#### Public-Private Partnerships

The bill merges the current nonprofit public-private partnership—Florida Sports Foundation and the Florida Black Business Investment Board—into the nonprofit corporation of Enterprise Florida, Inc. It maintains the functions of the current public-private partnerships, but consolidates the organizations into a single nonprofit public-private partnership, Enterprise Florida, Inc., to provide coordination in policies and strategies through a single board of directors.

The merger will be governed by ch. 617, Florida Statutes, which provides directions for merging not-for-profit corporations. The bill requires the Governor to designate a transition coordinator. This person is responsible for submitting a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the transition plans and any difficulties experienced by the entities. The bill establishes that each entity will continue operating independently until December 31, 2011, at which time the merger shall take place.

The Florida Commission on Tourism is repealed, while the direct support organization, the Florida Tourism Industry Marketing Corporation (d/b/a VISIT Florida), is retained and required to operate via contract with Enterprise Florida, Inc., for tourism-related marketing activities in the state. The bill establishes that the 12-appointed private sector board members of Enterprise Florida, Inc., are the board of directors for Space Florida.

The bill provides that the president of Enterprise Florida, Inc., is considered the Secretary of Commerce for the state. In addition, the bill provides that the board of directors of Enterprise Florida, Inc., may enter into an annual contract with the president that provides performance outcomes that would qualify the president for privately-funded bonuses, and provides for an exception in s. 112.313(7), F.S., for this purpose.

#### *Divisions of Enterprise Florida, Inc.*

The bill establishes the following divisions under Enterprise Florida, Inc.:

- The Division of International Trade and Business Development is responsible for business leads related to foreign investment, trade shows, financing for exports, international relations, trade assistance, and transportation planning coordination.
- The Division of Business Retention and Recruitment is responsible for business leads, and expansion and retention of Florida-based companies.
- The Division of Tourism is responsible for tourism campaign implementation and a 4-year marketing plan. This division is staffed by VISIT Florida.

- The Division of Minority Business Development is responsible for the expansion of minority businesses, the black business loan program, evaluating unmet needs for capital by black enterprises in the state, and for maintaining a network of information resources for minority businesses.
- The Division of Sports Industry Development is responsible for professional and amateur sports, the retention of sports franchises, and Sunshine State Games.

Each division is responsible to provide an annual report of activities to the board of directors by October 15th each year. The board of directors is required to include these reports with its annual operational report to the Legislature.

#### *Powers and Duties*

The bill provides for Enterprise Florida, Inc., to inherit similar powers and duties currently provided in law for the existing public-private partnerships. It maintains the board of directors' authority to enter into an annual contract with any EFI employee for incentive payments that increase the employee's total compensation level above \$130,000 using privately-funded performance bonuses. In addition, the bill maintains current private sector match requirements, requiring Enterprise Florida operational funding appropriated by the Legislature to be matched one-to-one, while also maintaining the one-to-one match currently required for VISIT Florida's marketing and advertising activities.

#### *Annual Report*

The bill requires Enterprise Florida, Inc., to provide an annual report outlining operations and accomplishments to the Legislature prior to December 1 each year. In addition, the bill requires an annual report on use of state incentives to create jobs, including a report on the return on the state's investment, to be provided to the Legislature by December 30 each year.

#### Streamlined Incentive Process

The bill substantially rewrites the current incentive process and timeframes. The bill provides that the review and approval or denial of a submitted economic incentive application must be complete within 10 business days. The bill provides that the contract for the award must specify the total amount of each incentive award, the performance conditions that must be met, the schedule for payment, and the sanctions or clawback provisions that would apply for failure to meet the performance conditions. In addition, the bill requires legislative review for Quick Action Closing Fund projects totaling \$5 million or more. Projects ranging from \$2-\$5 million require notification to the chairs and vice chairs of the LBC for approval. The bill does not make changes to the incentive programs that would alter or change program criteria such as standards set currently in statute for return-on-investment, wage criteria, or capital investment requirements.

#### Office of Early Learning

The Office of Early Learning is transferred to the Department of Education as a separate and independent entity. The director of the office is appointed by the governor and confirmed by the Senate. The Auditor General is directed to complete a financial and performance audit of the Office of Early Learning and the early learning programs. The audit report is due by December 31, 2011.

#### Other Type Two Transfers

The bill merges all current programs and functions, by type two transfers, from the Office of Tourism, Trade and Economic Development, Agency for Workforce Innovation, and Department

of Community Affairs into other departments and these governmental entities are repealed. The bill makes the following other type two transfers to allow for the complete elimination of these entities:

- Transfers the Division of Emergency Management, and related trust funds, to the Executive Office of the Governor.
- Transfers the Florida Communities Trust, currently in DCA, and related trust funds, to the Department of Environmental Protection.
- Transfers the Stan Mayfield Working Waterfronts, currently in DCA, and related trust funds, to the Department of Environmental Protection.
- Transfers the Florida Building Commission, currently in DCA, and related trust funds, to the Department of Business and Professional Regulation.

### Deepwater Horizon

To address the negative economic impacts of the Deepwater Horizon oil spill, this bill provides waivers for job, wage, and other requirements for businesses seeking economic development incentives in the following counties: Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, and Wakulla. The bill provides the ability to waive eligibility requirements for the following economic development programs: transportation projects or “Road Fund”, the Rural Community Development Revolving Loan Fund, the Rural Infrastructure Fund, the Rural Economic Development Strategy Grants, the Local Government Distressed Area Matching Grant Program, the Brownfield Redevelopment Bonus Refund, the High-Impact Industry performance grant, the Economic Gardening Loan and Technical Assistance programs, the Quick Action Closing Fund, the Innovation Incentive Fund, the Capital Investment Tax Credit, and the Qualified Target Industry Tax Refund Incentive Program.

The bill provides that during a state of emergency, permits are tolled and an additional six months is added to existing permits for the geographic area which the declaration of emergency applies.

The bill requires the Board of Trustees of the Internal Improvement Trust Fund to evaluate the adequacy of the existing multistate compact to address the Deepwater Horizon oil spill or similar future events. The board must determine whether the compact should be modified or another multistate compact developed and entered into. Further, the board must report its findings to the Legislature by February 1, 2012, and update the report annually for five years thereafter.

The bill creates the Commission on Oil Spill Response Coordination. The commission is tasked with indentifying ways in which federal law could be improved with respect to offshore drilling and protection of public health and safety, as well as environment and natural resources. A report is due September 1, 2012, and the commission expires on September 30, 2012.

The bill directs how funds received by the state based on damages caused by the Deepwater Horizon oil spill may be directed. Additionally, the bill provides additional relief to encourage economic development in the panhandle region, including a \$10 million per year appropriation for three fiscal years to develop and implement a strategic economic development plan in those counties.

### Florida Energy and Climate Commission

The bill abolishes the Florida Energy and Climate Commission (FECC) and transfers all of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the FECC from the Executive Office of the Governor to the Department of Agriculture and Consumer Services.

The bill repeals the following obsolete provisions:

- The Solar Energy System Incentives Program.
- The sales and use tax exemption for equipment, machinery, and other materials used for renewable energy technologies.
- The responsibility of consumer conciliatory conferences under DACS, if such conferences are required pursuant to federal law and the requirement that DACS prepare and update lists of sources for energy conservation products or services and of financial institutions offering energy conservation loans, if such lists are required pursuant to federal law.<sup>39</sup>
- The requirement that the FECC perform a study of life-cycle greenhouse gas emissions associated with renewable fuels by December 31, 2010.

The bill amends many statutes to conform changes made by the act, conforms cross-references, and deletes obsolete provisions.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

For fiscal years 2011-12, 2012-13, and 2013-14, a nonrecurring appropriation of \$10 million from General Revenue is provided to the Department of Economic Opportunity to assist in diversifying the regional economy in Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton counties. The department is required to execute a contract with the Office of Economic Development and Engagement within the University of West Florida for use of the funds.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

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<sup>39</sup> This unused provision was adopted in 1980 and last amended in 1991. There is no known federal law providing this mandate.

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:**