



Broward FLI

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AFFAIRS STAFF

Gretchen Harkins

Eddy Labrador

Christopher Brown

Susan Harbin

Daphnee Sainvil

FY 2012 Omnibus Spending Package

Last week, the House (296-121) and Senate (67-32) passed a \$1 trillion year-end spending package which will fund the government through September 2012; the President signed it into law on Saturday. The bill sets appropriations levels for Defense, Energy and Water, Financial Services, Homeland Security, Interior/Environment, Labor/Health and Human Services/Education, the Legislative Branch, Military Construction/Veterans Affairs and State/Foreign Operations. The bill also provides funding for disaster aid and recovery assistance. The package increases funding for the Defense Department while at the same time reduces domestic discretionary spending by 10 percent.

According to the House Appropriations Committee, this legislation upholds the overall regular (base) discretionary level of \$1.043 trillion as set forth in the Budget Control Act (BCA) last summer. When combined with the previous "minibus" Appropriations bill enacted in November, total discretionary funding for FY 2012 will equal \$1.043 trillion; \$7 billion less than last year's level of \$1.050 trillion and \$98 billion less than the President's request. The package includes a total of \$915 billion in regular security and non-security discretionary funding; \$6 billion below last year's (FY 2011) level for these same agencies, and more than \$70 billion below the President's requested levels.

The final FY 2012 Appropriations package includes:

- \$39.6 billion in regular discretionary funding for the **Department of Homeland Security** (DHS), a decrease of \$2 billion below last year's level and \$4 billion below the President's request.
- \$11.7 billion for **Customs and Border Protection** (CBP), an increase of \$362 million over last year's level. This funding provides for a total of 21,370 Border Patrol agents and 21,186 CBP officers (sustaining the highest staffing levels in CBP's history), additional training and canine units at ports of entry, inspection and detection technology, and Air and Marine operations and procurement.
- \$5.9 billion for **Immigration and Customs Enforcement** (ICE), which is \$50 million more than last year's level. \$5 billion for the Army Corps of Engineers, an increase of \$145 million above last year's level and \$429 million above the budget request.
- \$10 billion for the **Coast Guard**, which is \$86 million above last year's level. This funding provides for maritime safety and security activities, counternarcotic enforcement, facilities and equipment maintenance, and overseas contingency operations including operations in the Persian Gulf.

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- \$4.7 billion in regular, base discretionary funding for the **Federal Emergency Management Agency (FEMA)**, a decrease of \$2.9 billion from last year's level. The bill fully funds Emergency Management Performance Grants at \$350 million and provides \$675 million for firefighting grants. The bill provides \$700 million in base funding for the Disaster Relief Fund (DRF). An additional \$6.4 billion in emergency disaster assistance is provided in the package.
- \$2.4 billion is provided for **FEMA First Responder Grants**, \$1 billion below last year's level and \$1.5 billion below the President's request. In addition, the bill requires increased reporting requirements and oversight of existing funds, consolidates disparate programs, and dedicates \$100 million to areas with the greatest risk of terrorist attack. \$1.8 billion for programs to help lower the cost of renewable energy technologies and to develop new technology.
- \$7.8 billion for the **Transportation Security Administration (TSA)**, an increase of \$153 million over last year's level and \$274 million below the President's request. These funds will sustain the current cap level of 46,000 full-time screening personnel, and provide for explosive detection systems, security enforcement, cargo inspections, Federal Air Marshals, and other TSA activities.
- \$69.7 billion for the **Department of Health and Human Services**, nearly \$700 million below the last year's level and \$3.4 billion below the President's budget request.
- \$6.5 billion for the **Health Resources and Services Administration (HRSA)**, which is \$41 million below last year's level and \$848 million below the budget request. Within this total, Community Health Centers are funded at \$1.6 billion, the same as last year's level.
- \$6.1 billion for the **Centers for Disease Control and Prevention (CDC)**, an increase of \$38 million above last year's level and \$269 million below the President's budget request. The legislation funds the Preventive Health and Health Services Block Grant at \$80 million, a program that provides funding to states to address critical public health needs. An extra \$25 million was included for AIDS Drug Assistance Program (ADAP).
- \$30.7 billion for the **National Institutes of Health (NIH)**, an increase of \$299 million above last year's level and \$758 million below the President's request.
- \$3.5 billion for the **Substance Abuse and Mental Health Administration (SAMHSA)**, \$27 million below last year's level and \$73 million below the President's budget request. Within this total, the **Substance Abuse Block Grant** program receives \$1.8 billion, an increase of \$21 million over last year, and the Mental Health Block Grant receives \$461 million, an increase of \$41 million over last year.
- \$3.9 billion for **Centers for Medicare and Medicaid Services (CMS)**, which is \$241 million over last year's level and \$517 million below the President's request. Since 2000, the number of CMS beneficiaries (those receiving Medicare, Medicaid and Children's Health Insurance Program benefits) has increased by 51 percent.
- \$29.2 billion for the **Administration for Children and Families (ACF)**, a decrease of \$855 million below last year's level and \$327 million above the President's budget request.
- \$8.4 billion for the **Environmental Protection Agency**, which is a \$233 million reduction below the FY 2011 enacted level and \$524 million below the President's request. Overall, funding for EPA has been reduced by \$1.8 billion (-18.4%) in calendar year 2011.
- \$3.5 billion for the **Low Income Home Energy Assistance Program (LIHEAP)** block grant—a decrease of \$1.2 billion below last year and an increase of \$909 million above the President's budget request, and maintains the funding ratio between

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“cold weather” and “warm weather” states.

- \$2.3 billion, \$60 million above last year’s level, for the **Child Care and Development Block Grant**.
- \$8 billion for **Head Start**, which is \$424 million above last year’s level and \$714 million for the **Community Services Block Grant**, an increase of \$12 million above last year and \$349 million above the President’s budget request.
- \$29.2 billion for Interior/Environment agencies and programs. This total is \$384 million below the FY 2011 enacted level and \$2.1 billion below the President’s request.
- \$1.1 billion for the **Bureau of Land Management (BLM)**, which is a decrease of \$5 million below last year’s level. The conference agreement does not include a proposal by the President to increase oil and gas fees by \$38 million.
- \$60 million for the **Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)** to expedite the review of offshore oil and gas exploration plans.
- \$76 million for the **Bureau of Safety and Environmental Enforcement (BSEE)**, including \$15 million for oil spill research. It also provides authority for the collection of \$62 million in inspection fees with dedicated funding for approving permits, expediting exploration plan approvals, and hiring much-needed inspectors and engineers while also accelerating the approval of drilling permits.
- \$534 million for research and development to advance coal, natural gas, and other fossil energy power generation technologies.

Meanwhile, the agreement cuts:

- \$14 million (-6%) in clean air and climate research programs.
- \$12 million (-9.5%) in EPA’s regulatory development office.
- \$14 million (-5%) to air regulatory programs.
- \$101 million for the Clean Water and Drinking Water State Revolving Funds.
- \$78 million for EPA operations/administration, which includes \$41 million (-5%) in cuts to EPA’s regulatory programs.
- \$14 million (-6.2%) reduction for uncoordinated climate and other air research.

Additional legislative provisions contained in the package include:

- A provision directing the Department of Interior to expedite permit approval for new offshore energy production.
- A provision halting new light bulb efficiency standards.
- A rejection of a provision requiring energy efficiency regulation for TVs and set-top boxes.
- A rejection of a provision changing rules on how states set electricity prices.
- A termination of \$181 million in funding for certain Department of Energy (DOE) loan guarantees, including terminating the program that granted funds to the failed company Solyndra.
- A prohibition on the entire Department of Health and Human Services from activities that advocate or promote gun control, previously this prohibition only applied to CDC.
- A ban on funding for needle exchange programs.
- Provisions preventing funds for federal contracts if the recipient has been convicted of a felony or if the recipient has unpaid federal tax liabilities.
- A termination of the Office of National Drug Control Policy Youth Media Campaign.

Port Everglades

The FY 2012 Omnibus spending bill includes \$1.961 million in operations and

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maintenance funding for Port Everglades. This amount is \$39,000 less than the requested \$2 million for maintenance dredging at the Port. The Jacksonville District has identified an additional \$3 million need to fully fund and undertake this dredging project. In addition, the bill includes \$55 million in unspecified operation and maintenance funding for Deep-Draft Harbor and Channel maintenance. These unspecified funds are to be used for "maintaining authorized depths and widths of harbor and shipping channels." Within 45 days the Corps must submit a Work Plan to Congress identifying the projects and amounts for these funds along with the Administration criteria justifying the funding decisions. The Jacksonville District will be contacted about these funds and the possibility of putting Port Everglades in the Work Plan to add the needed \$3 million to do the maintenance dredging in FY 2012.

Another consideration for Port Everglades is the feasibility report funding. There is no feasibility report funding for Port Everglades in FY 2012. However, there are \$10 million in unspecified feasibility funds for Coastal and Deep Draft projects in the FY 2012 appropriation. These funds are to continue ongoing studies that were either not included in the Administration's request or were not adequately budgeted. To be eligible, a study had to be funded in one of the past three years; Port Everglades qualifies for these unspecified feasibility funds.

Broward County Beaches

While Broward County beaches did not receive an appropriation, there is \$39.544 million in unspecified construction funding for shore protection activities. The money is slated for ongoing projects not included in the Administration's request or project inadequately funded. The same, at least one year funding in the last three years, criteria applies and the Corps must submit a Work Plan to Congress within 45 days.

Medicaid Reform Pilot Extension

On December 15, after months of negotiations, the federal Centers for Medicare and Medicaid Services (CMS) approved the state's request to extend the Florida Medicaid Reform section 1115 Demonstration waiver, which authorizes the five-county Medicaid managed care pilot program operating since June 2006, through June 2014. In granting the extension, CMS will require some significant changes to the current program; specifically:

- Beginning in July 2012, managed-care plans will be required to meet an annual 85 percent medical loss ratio standard, meaning that plans will have to spend at least 85 percent of incoming premium dollars on patient care, as opposed to on administrative costs or other expenses.
- The state will continue to receive \$1 billion in Low Income Pool (LIP) funds annually throughout the extended pilot program; however, beginning in 2013, the state will be required to direct \$50 million in LIP funds towards new or enhanced programs that "meaningfully enhance the quality of care and the health of low income populations."

This extension of the five-county pilot program is essentially the first step in the state's goal to implement statewide Medicaid reform, pursuant to HB 7107 and HB 7109, passed by the Florida Legislature during the 2011 Session. To expand managed care throughout Florida, the state will have to amend the existing waiver; thus, all conditions set by CMS for the pilot program extension will ultimately apply to statewide reform, in the event that it is approved by the federal government. The state has 30 days to formally accept the waiver extension and additional conditions.

Water Quality Standards

On December 8, the state Environmental Regulation Commission approved the Florida Department of Environmental Protection's (DEP) proposed numeric nutrient water quality standards, which revise the existing narrative standards for surface water quality and impaired surface waters. Pursuant to HB 1565, which was passed by the Florida Legislature in 2010, vetoed by Governor Crist, and then overridden by the Legislature during a Special Session, these proposed water quality rules must now be ratified by the Legislature, as they have an estimated economic impact of more than \$1 million.

If the DEP standards receive the necessary approvals from the state and federal governments, they will replace the rules developed by the U.S. Environmental Protection Agency (EPA), set to go into effect in March 2012. In June of this year, the EPA responded positively to a DEP petition requesting that the state be allowed to develop and implement its own numeric standards, provided that they are scientifically sound and adequately protective of water quality. Florida remains the only state in which the EPA has acted to impose its own water quality standards; traditionally, states set their own standards. While estimates of the costs of implementing the proposed federal rules have varied significantly from the high millions to billions, the general consensus is that implementation of the DEP developed rules will be less costly. However, environmental groups argue the state rules are also less stringent, and thus potentially less protective, than the EPA developed standards. The DEP rules will now move to the Florida Legislature for approval.

Chinese Drywall Settlement

Close to 5,000 homeowners reached a settlement with Knauf Plasterboard Tianjin Co. (KPT), who on December 15 agreed to pay at least \$800 million to repair homes and replace defective drywall. This settlement will affect approximately 4,500 properties and enable them to recover losses caused by the defective drywall, including many Florida property owners. The settlement covers residential and commercial properties.

According to sources close to the company, the ultimate cost to KPT could reach \$1 billion. Other companies may eventually be included in the settlement, such as home builders and contractors that used the material. The tentative agreement does not contain a minimum or maximum number on the cost of repairing homes and does not place a cap on the fund. "Any homeowner who can show they have KPT product in their homes will be covered and the costs of those repairs are covered by the agreement no matter how much the total cost may be to the company," according to a KPT lawyer.

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