



## *Florida House of Representatives*

### Democratic Office

*Franklin Sands*  
*Democratic Leader*

*Geraldine F. Thompson*  
*Democratic Leader Pro Tempore*

The Honorable Charlie Crist  
Governor, State of Florida  
The Capitol  
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Tallahassee, Florida 32399-0001

Governor Crist:

We join Senator Dan Gelber in renewing our call for a special session in July. With 26 Florida counties under emergency orders due to the BP Deepwater Horizon oil spill, it is no longer just our fear, rather a sad reality, that Florida will be gravely impacted by the disaster. The livelihood of many Floridians and our state's economy are at risk. Urgent actions of the Florida Legislature are needed to protect the wellbeing of the people of Florida.

On May 6, we called on you to reconvene the Legislature for a special session. We appreciate the careful consideration that you have given this matter, and we are grateful that you are considering a special session.

We recognize the importance of having a plan in place so we maximize our time during the special session. Therefore, we recommend the same items suggested by Sen. Gelber as the starting point for a July special session agenda.

(1) ***Revise Statutes to Maximize Recovery for Victims***: We should review Florida Statutes with the goal of eliminating any statutory obstacles to full recovery from BP and other wrongdoers. While many of the lawsuits will be in federal court, we should make sure our state laws guarantee that Florida's citizens receive full economic recovery from all the responsible parties. We may need to clarify the economic loss rule and its application to the types of losses that are likely to be incurred by our constituents. (For instance, in *Curd v. Mosaic Fertilizer*, 993 So. 2d 1078 (2d DCA 2008) the court held that, under Florida law, commercial fisherman have no lost

income claim due to pollution affecting their fishing grounds under the economic loss rule because the fishermen have no property interest in the fish) We should also consider creating a bad faith provision in the settlement of claims; modifying attorney fees provisions to maximize victim recovery (by having the responsible defendants pay fees); and addressing some of the deceptive practices that our residents may encounter as claims are resolved.

We recognize that there may be limits to what we can do via a statutory change after the spill began, but we still owe it to our citizens to do our best to maximize recovery of damages within the full reach of the law

(2) ***Give Attorney General environmental crimes authority***: Currently, the Attorney General has limited authority to prosecute environmental crime matters. Although we realize that the federal government has authority under oil pollution statutes, and various environmental and species based statutes, we think we should consider giving the state's chief legal officer (and the statewide prosecutor) authority to advance criminal claims on behalf of the State.

(3) ***Create Compensation Commissioner to facilitate recovery***: How Floridians will be compensated is going to be very complex and there needs to be an office dedicated solely to making sure our residents and businesses are made whole. There will be state and federal civil claims, criminal claims (with potential fines and victim compensation awards) and claims that are paid simply through the claims process. There will also be complexities as to how funds are distributed among aggrieved parties. While we are unsure about what the federal claims process will look like, I think it makes sense for Florida to consider creating a claims commissioner with the twin goals of advocating for aggrieved Floridians, and helping administer the claims process. A compensation commission will be able to create efficiencies in the claims process, and better assure equity and uniformity in payouts. The commission might be of use to distribute funds coming from lawsuits once damages have been established. Someone like former Attorney General Bob Butterworth, who is well versed in complex state and federal litigation, could serve as its Commissioner.

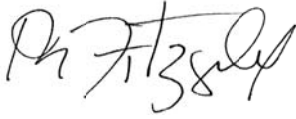
(4) ***Near-shore drilling ban***: We continue to believe we should adopt a constitutional amendment guarding against near-shore drilling. This past Spring the legislature came perilously close to changing Florida statutes to permit oilrigs within 3 miles of our coastline. I recognize the legislature has been unfriendly to the concept of a constitutional ban on near-shore drilling. However, now is the time to put this issue to be on the agenda of a Special Session so that better judgments might prevail.

(5) ***Small Business Relief***: We should also focus on establishing a small business relief program for Florida's coastal businesses who are most acutely feeling the pain from the oil spill. The legislature should stand up an agency whose only purpose is to address immediate needs of small businesses being harmed by the spill. It is important that we act quickly because failure to provide immediate and sustained relief especially impacts small businesses who generally lack reserves to withstand this type of business interruption and the infrastructure to access relief programs.

We did not include a suggestion that the legislature consider renewable energy measures in a

July session only because we think such an endeavor is best pursued as the first order of business in January as its own Special Session for the next legislature.

Thank you for your attention to this important matter.

A handwritten signature in black ink, appearing to read "Keith Fitzgerald". The letters are cursive and somewhat stylized.

Keith Fitzgerald  
State Representative

A handwritten signature in black ink, appearing to read "Rick Kriseman". The signature is very stylized and cursive.

Rick Kriseman  
State Representative