

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7007 (PCB EDTS 13-01) Department of Economic Opportunity
SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee; Economic Development & Tourism Subcommittee; Trujillo
TIED BILLS: **IDEN./SIM. BILLS:** SB 1024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Development & Tourism Subcommittee	12 Y, 0 N	Duncan	West
1) Transportation & Economic Development Appropriations Subcommittee	12 Y, 0 N, As CS	Proctor	Davis
2) Economic Affairs Committee		Duncan	Creamer

SUMMARY ANALYSIS

The bill provides for the following adjustments and efficiencies within the Department of Economic Opportunity programs:

Statutorily Required Annual Reports

Numerous annual reports relating to economic development programs and activities are required to be submitted at various times of the year from January 1 to December 31. The bill modifies reporting dates and consolidates annual reporting requirements for economic development related programs and activities.

Florida Small Cities Community Development Block Grant Program

The Florida Small Cities Community Development Block Grant Program is a federally-funded program administered by the Department of Economic Opportunity (DEO). Several statutory requirements are outdated, or more restrictive than required by the U.S. Department of Housing and Urban Development. The bill grants rulemaking authority to DEO and revises provisions in the program to provide greater flexibility in addressing the diverse community and economic development needs of Florida's rural communities.

Reemployment Assistance Program

In order to comply with federal requirements, the bill imposes penalties on individuals who fraudulently collect reemployment benefits or unlawfully disclose confidential information. For the 2012 tax year, the bill provides that any excess assessments from prior years will be transferred to the Unemployment Compensation Trust Fund for federal interest payments due. The bill also extends the deadline for the Reemployment Assistance Claims and Benefits Information System to become operational.

VISIT Florida Board of Directors

The bill specifies that the Governor will serve ex officio as a nonvoting member of the VISIT Florida Board of Directors.

Enterprise Zones

The bill allows for any enterprise zone that is at least 15 square miles and less than 20 square miles and includes a portion of a rural area of critical economic concern (RACEC) to expand the boundary of the enterprise zone up to 3 miles. Also, any enterprise zone that is at least 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 5 miles.

The bill will have a negative fiscal impact on state revenue for FY 2013-14 of \$120,000, and an insignificant negative impact on local revenue.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Annual Report Consolidation

Present Situation

Numerous annual reports relating to economic development programs and activities are required to be submitted to the Governor and the Legislature at various times of the year from January 1 to December 31. Additionally, certain entities are required to compile and submit information to the Governor and Legislature and/or to the Department of Economic Opportunity (DEO) as separate reports. A lack of uniform reporting makes it difficult for DEO to effectively track and report program activities and functions.

Department of Economic Opportunity

The Department of Economic Opportunity, with assistance from Enterprise Florida, Inc., is directed to submit an annual report by January 1 to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the condition of the business climate and economic development in the state.¹

Enterprise Florida, Inc.

Enterprise Florida, Inc., (EFI) is required to prepare an annual report and an annual incentives report.² Annually, before December 1, EFI is directed to submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader, a complete and detailed report including a description of the operations and accomplishments of Enterprise Florida, Inc., and its divisions, boards, advisory councils, or similar entities created by Enterprise Florida, Inc., and an identification of any major trends, initiatives, or developments affecting the performance of any program or activity. The individual annual reports prepared by each division must be included as addenda.³

Annually, by December 30 of each year, EFI is directed to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a detailed incentives report quantifying the economic benefits for all of the economic development incentive programs marketed by Enterprise Florida, Inc.⁴ The report is not required to be submitted in conjunction with DEO.

The following is a list of statutorily required economic development related annual reports and their due dates:

Program	Statute	Date Report Due
Corporate income tax credits for spaceflight	s. 220.194(9), F.S.	November 30 – Separate report submitted to the Governor and Legislature (Beginning 2014)
State of Florida international offices	s. 288.012(3), F.S.	October 1 – Report submitted to DEO
Rural Economic Development Initiative	s. 288.0656(8), F.S.	On or before September 1 – Separate report submitted to the Governor and Legislature
Economic Development Trust Fund	s. 288.095(3)(c), F.S.	December 30 - Separate report submitted to the Governor and Legislature

¹ Section 20.60(10), F.S.

² Section 288.903(3), F.S.

³ Section 288.906(1) and (1)(a), F.S.

⁴ Section 288.907(1), F.S.

Program	Statute	Date Report Due
Tax refund program for qualified target industry businesses	s. 288.106(7), F.S.	December 1 - Separate report submitted to the Governor and Legislature
Economic Gardening Business Loan Pilot Program	s. 288.1081(8), F.S.	June 30 December 31 Separate report submitted to the Governor and Legislature
Economic Gardening Technical Assistance Pilot Program	s. 288.1082(8), F.S.	December 31 - Separate report submitted to the Governor and Legislature
Quick Action Closing Fund	s. 288.1088(3), F.S.	Within 6 months after completion of the contract - Separate report submitted to the Governor and Legislature
Innovation Incentive Program	s. 288.1089(9) and (11)(a), F.S.	Within 90 days after the conclusion of the innovation incentive award agreement. Separate report submitted to the Governor and Legislature Report summarizing the activities and accomplishments of grant recipients from the Innovation Incentive Program during the previous 12 months. No specific date but in time to be submitted as part of the DEO's annual report.
Travel and Entertainment Expenses – Office of Film and Entertainment	s. 288.1253(3), F.S.	December 30 – Separate report submitted to the Legislature.
Entertainment Industry Financial Incentive Program	s. 288.1254(10), F.S.	October 1 - Separate report submitted to the Governor and the Legislature
Entertainment industry qualified production companies – relationship of tax exemptions and incentives to industry growth	s. 288.1258(5), F.S.	December 1 – Separate Report to the Legislature
Black Business Loan Program	s. 288.714(3), F.S.	August 31 - Separate report submitted to the Governor and Legislature
Florida Export Finance Corporation	s. 288.7771, F.S.	No specific date but should report on its assets and liabilities at the end of its most recent year and submitted in time to be incorporated into the

Program	Statute	Date Report Due
		DEO's annual report.
Annual Report of EFI	s. 288.906, F.S.	December 1 – Separate report due to the Governor and Legislature
Annual Incentives Report -EFI	s. 288.907, F.S.	December 30 – Separate report submitted to the Governor and the Legislature
Divisions of Enterprise Florida, Inc.	s. 288.92(3), F.S.	October 15
Florida Small Business Technology Growth Program	s. 288.95155(5), F.S.	No specific date – Report prepared for inclusion in DEO's annual report.
Enterprise Zone Development Agency	s. 290.0056(11), F.S.	December 1 – Report submitted to DEO
Information detailing the usage and revenue impact of state incentives authorized for use in support of the Florida Enterprise Zone Act provided by the Department of Revenue (DOR).	s. 290.014(1), F.S.	February 1 – Report submitted to DEO
Information provided by the enterprise zone development agencies required under the Florida Enterprise Zone Act.	s. 290.014(2), F.S.	March 1 – Separate report but combined with the information provided by DOR submitted to the Governor and the Legislature.
Displaced Homemaker Program	s. 446.50(4), F.S.	January 1 – 3 year plan and annual updates submitted to the Governor and the Legislature.

Effect of Proposed Changes

The bill consolidates annual reporting requirements of statutorily required reports and information and incorporates them into reports prepared by DEO, EFI, and the Office of Film and Entertainment.

DEO Annual Report

The bill changes the due date of DEO's annual report from January 1 to November 1 and incorporates the annual reports of the following programs:

- Rural Economic Development Initiative.
- Economic Gardening Business Loan Pilot Program and the Economic Gardening Technical Assistance Pilot Program.
- Black Business Loan Program.
- Enterprise Zone Program.
- Displaced Homemaker Program.

Enterprise Florida, Inc. Annual Report

The bill directs EFI to include, as a supplement to its annual report, information or reports required for the following programs and activities:

- State of Florida International Offices.
- The Florida Export Finance Corporation.
- EFI's division reports.

Annual Incentives Report

The bill incorporates the following reports or information into the annual incentives report:

- Beginning in 2014, the summary of activities relating to the Florida Space Business Incentives Act.
- The Economic Development Trust Fund Annual Report. Section 288.095(3)(c), F.S., relating to the annual report and its components for the Economic Development Trust Fund is repealed and most of the provision is integrated into the annual incentives report, rather than a separate report. The following information originally required as part of the Economic Development Incentives Account Report must be incorporated in the annual incentives report:
 - Tax refunds or other payments funded out of the Economic Development Incentives Account for each project.
 - The types of projects supported.
 - Separate analysis of the impact of tax refunds on state enterprise zones, rural communities, brownfield areas, and distressed urban communities.
 - The name and tax refund amounts for each business receiving a tax refund under the qualified defense contractor and space flight business tax refund program or the tax refund program for qualified target industry businesses.
- Information on the causes of a business's inability to complete its Qualified Targeted Industry (QTI) incentives agreement.
- Validation by DEO, instead of EFI, of contractor performance for the Quick Action Closing Fund which makes it consistent with the Innovation Incentive Program.
- Validation of the Innovation Incentive Program to include the evaluation as to whether the recipients were catalysts for additional economic development in Florida, is also added to the report. The bill deletes the requirement for reporting on contractor performance 90 days after completion because it is included in the annual incentives report.
- Validation of contractor performance for incentives.
- Recommended changes to the underutilized incentive programs. Current law requires the annual incentive report to identify incentive programs that are not utilized.
- Florida Small Business Technology Growth Program.

The bill revises the annual incentives report to require it be a joint report by EFI and DEO. The report due date remains December 30 as provided in current law.

Office of Film and Entertainment

The bill changes the due date of the Office of Film and Entertainment's (OFE) annual report from October 1 to November 1 and consolidates the annual reports relating to the OFE by requiring the expenditures report and the report detailing the relationship between tax exemptions and incentives to industry growth⁵ to be included. The report remains as a separate report submitted to the Governor and Legislature.

⁵ See s. 288.1258(5), F.S.
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DATE: 4/12/2013

The bill requires that the annual operations report be included as a supplement to the annual performance report.

Small Cities Community Development Block Grant Program

Present Situation

U.S. Department of Housing and Urban Development – State Administered Community Development Block Grant (CDBG) Program

Congress amended the Housing and Community Development Act of 1974 in 1981 to give each state the opportunity to administer Community Development Block Grant (CDBG) funds for non-entitlement areas. Non-entitlement areas include local governments, which do not receive CDBG funds directly from the U.S. Department of Housing and Urban Development (HUD) as part of the entitlement program (Entitlement Cities and Urban Counties). Non-entitlement areas are cities with populations of less than 50,000 (except cities that are designated principal cities of Metropolitan Statistical Areas), and counties with populations of less than 200,000.⁶

The objective of the CDBG program is to develop viable communities by providing adequate housing and a suitable living environment by expanding economic opportunities, principally for persons of low and moderate income (LMI). The state must ensure that at least 70 percent of its CDBG grant funds are used for activities that benefit LMI persons over a one, two, or three-year time period selected by the state. This general objective is achieved by granting "maximum feasible priority" to activities which benefit LMI families or aid in the prevention or elimination of blighted areas. Under unique circumstances, states may also use their funds to meet urgent community development needs. A need is considered urgent if it poses a serious and immediate threat to the health or welfare of the community and has arisen in the past 18 months.⁷

HUD distributes funds to each state through a statutory formula based on population, poverty, incidence of overcrowded housing, and age of housing. Neither HUD nor states distribute funds directly to citizens or private organizations; all funds (other than administrations and the technical assistance set-aside) are distributed by states to local governments.⁸

Flexibility

According to HUD, state officials may, within reasonable limits, employ their own guidelines for interpreting the Housing and Community Development Act (HCDA). States may even apply more restrictive eligibility requirements than the HCDA, provided that state's restrictions are not inconsistent with or contradictory to the HCDA. For example, the HCDA prohibits a state from declaring certain statutorily eligible activities as ineligible for funding in that state's program, but allows a state to establish relative funding priorities among types of eligible activities.⁹

Citizen Participation

HUD requires a minimum of two public hearings, for the purpose of obtaining citizens' views and formulating or responding to proposals and questions. Each public hearing must be conducted at a different stage of the CDBG program. Together, the hearings must address community development and housing needs, development of proposed activities and a review of program performance. There must be reasonable notice of the hearings and they must be held at times and accessible locations convenient to potential or actual beneficiaries, with reasonable accommodations including material in accessible formats for persons with disabilities.

⁶ U.S. Department of Housing and Urban Development, State Administered CDBG, State Administration, http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/stateadmin, (last visited January 16, 2013).

⁷ *Id.*

⁸ *Id.*

⁹ U.S. Department of Housing and Community Development, State Community Development Block Grant Program, Categories of Eligible Activities, at 2-1, available at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_16361.pdf.

Citizen participation is encouraged, particularly by low and moderate-income persons who reside in areas in which CDBG funds are proposed to be used.¹⁰

The applicant shall publish a proposed application consisting of the proposed community development activities and community development objectives in order to afford affected citizens an opportunity to:

- Examine the application's contents to determine the degree to which they may be affected;
- Submit comments on the proposed application; and
- Submit comments on the performance of the applicant.¹¹

In the preparation of the final application, the applicant must consider comments and views received related to the proposed application and may, if appropriate, modify the final application to include recommendations. The final application must be made available to the public and include the community development objectives, projected use of funds, and the community development activities.¹²

State of Florida Administered Community Development Block Grant Programs

DEO administers three Community Development Block Grant Programs:

- Florida Small Cities Community Development Block Grant Program
- Disaster Recovery Initiative
- Neighborhood Stabilization Program

Florida Small Cities Community Development Block Grant (CDBG) Program

Intent and Purpose

Chapter 290, F.S., provides that the intent of the Florida Small Cities Community Development Block Grant Program Act (Act) is to provide the necessary means to develop, preserve, redevelop, and revitalize Florida communities exhibiting signs of decline or distress by enabling local governments to undertake necessary community development programs. Mirroring the federal law, the overall objective of the program is to create viable communities by eliminating slum and blight, fortifying communities in urgent need, providing adequate housing and suitable living environments, and expanding economic opportunities, principally for persons of low or moderate income.¹³

“Persons of low or moderate income” means any person who meets the definition established by HUD.¹⁴ HUD defines “persons of low income” as families and individuals whose incomes do not exceed 50 percent of the median income of a service area, as determined by HUD. “Persons of moderate income” are defined as families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent of a service area, as determined by HUD.¹⁵

The purpose of the Act is to assist local governments in carrying out effective community development and project planning and design activities to reverse community decline.¹⁶

Powers

Current law grants DEO the power to carry out the provisions of the Florida Small Cities CDBG Program, including the power to:¹⁷

- Make contracts and agreements with the federal government; other state agencies; any other public agency; or public person, association, corporation, local government, or entity in exercising its powers and performing its duties under the Act.
- Seek and accept funding from any public or private source.

¹⁰ See 24 C.F.R. 570.431, Subpart F, Citizen Participation.

¹¹ *Id.*

¹² *Id.*

¹³ Section 290.0411, F.S.

¹⁴ Section 290.042(6), F.S.

¹⁵ 42 U.S.C 5302 a.20.

¹⁶ *Id.*

¹⁷ Section 290.048, F.S.

- Adopt and enforce rules¹⁸ consistent with the Act for the administration of the Small Cities CDBG Program fund.
- Assist in training employees of local governing authorities to help increase their capacity to administer programs pursuant to the Act and provide technical assistance and advice to local governing authorities involved with these programs.
- Adopt and enforce strict requirements concerning an applicant's written description of a service area.
- Pledge CDBG revenues from the federal government in order to guarantee notes or other obligations of a public entity approved to receive funding through the Section 108 Loan Program.
- Establish an advisory committee of no more than 13 members to solicit participation in designing, administering, and evaluating the program and linking the Small Cities CDBG Program with other housing and community development resources.

Administration

The Florida Small Cities CDBG Program provides grants and loans on a competitive basis to eligible municipalities and county governments¹⁹ (non-entitlement) to serve low and moderate-income families. DEO is directed to define the broad community development objective to be achieved by the activities in the five categories of funding (excluding state administration): housing, neighborhood revitalization, commercial revitalization, economic development, and project planning and design.²⁰ Planning and design grants provide for engineering and architectural plans and designs for CDBG infrastructure or public facility projects. Priorities are defined annually and funds are allocated according to the state's Annual Action Plan.²¹

As part of its administrative responsibilities, DEO is required to establish a system of monitoring grants, including site visits, to ensure the proper expenditure of funds and compliance with the conditions of the recipient's contract.²²

Grant Categories

DEO provides specific requirements for the competitive grant categories.²³ Below are the grant categories and examples of activities DEO has authorized for funding during Federal Fiscal Year 2012.²⁴

Housing Rehabilitation

Objective: To improve housing conditions and expand housing opportunities for very low, low, and moderate income persons. The following are examples of eligible housing rehabilitation activities:

¹⁸ Chapter 73C-23, F.A.C.

¹⁹ Eligible local governments are non-entitlement cities with fewer than 50,000 residents; counties with fewer than 200,000 residents; and cities that opt out of the entitlement program. <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/florida-small-cities-community-development-block-grant-program> (last visited January 18, 2013). See FFY 2012 List of Small Cities CDBG Program Eligible Communities available at <http://www.floridajobs.org/fhcd/cdbg/Files/Misc/EligibleCommunities.pdf>.

²⁰ Section 290.044(2) and (3), F.S.

²¹ The U.S. Department of Housing and Urban Development (HUD) requires each state to annually develop funding priorities and criteria for selecting projects. U.S. Department of Housing and Community Development, State Administered CDBG,

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/stateadmin (last visited January 25, 2013). The One-Year Action Plan or Annual Action Plan is a document submitted to HUD annually, which describes the method used by the State of Florida to distribute HUD funds. It also contains information on priorities to be addressed and program objectives. The plan covers one state fiscal year and one allocation of federal funding. Florida Department of Economic Opportunity, Division of Community Development, State of Annual Action Plan for Programs Funded by the U.S. Department of Housing and Urban Development, Federal Fiscal Year 2012, at 9, available at <http://www.floridajobs.org/fhcd/cdbg/Files/ConsolidatedPlan/DRAFT2012AnnualActionPlan.pdf>

²² Section 290.044(5), F.S.

²³ Rule 73C-23.0045, F.A.C.

²⁴ Florida Department of Economic Opportunity, Division of Community Development, State of Annual Action Plan for Programs Funded by the U.S. Department of Housing and Urban Development, Federal Fiscal Year 2012, at 9, available at <http://www.floridajobs.org/fhcd/cdbg/Files/ConsolidatedPlan/DRAFT2012AnnualActionPlan.pdf>.

- Rehabilitation of housing or publicly owned or acquired properties.
- Demolition of dilapidated housing and the relocation of residents to replacement housing.
- Code enforcement.
- Weatherization and energy-efficiency improvements.
- Installation of wells or septic tanks where water or sewer service is unavailable.
- Mitigation of future natural disaster hazards in housing.

Housing rehabilitation is intended to keep affordable housing owned or occupied by LMI persons within the community. Substandard conditions can be addressed using CDBG housing funds. Communities that do not have the capacity to undertake large scale affordable housing projects are able to maintain the stock of affordable housing by using CDBG and state housing funds for rehabilitation and replacement.²⁵

Neighborhood Revitalization

Objective: To revitalize declining neighborhoods and improve infrastructure. A neighborhood revitalization project may involve a single activity or various activities. The following are examples of eligible neighborhood revitalization activities:

- Improvements to deteriorating infrastructure.
- Construction or rehabilitation of handicapped facilities.
- Constructing roads and drainage facilities.
- Construction or rehabilitation of neighborhood facilities which provide health, social, recreational or other community services for a neighborhood.²⁶

Commercial Revitalization

Objective: To revitalize commercial areas that are showing signs of decline by addressing problems that cause deterioration. The following are examples of eligible commercial revitalization activities:

- Installation or reconstruction of streets, utilities, parks, playgrounds, public spaces, public parking facilities, pedestrian malls, and other necessary public improvements.
- Selling, leasing or otherwise making available land in commercial areas for public use.
- Correction of architectural barriers to handicap access.
- Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of building facades or other exterior improvements and repair of code violations.

All activities in the commercial revitalization category must assist the local government in achieving the objectives of its community redevelopment plan. A proposal under this category may involve a single type of activity, such as rehabilitation of commercial facades, or several activities designed to address various aspects of the local government's community redevelopment plan.²⁷

Economic Development

The objectives associated with the economic development category are to promote investment of private capital; to retain local economic enterprises; and provide long-term jobs with growth potential, primarily for very low, low, and moderate-income households. The following are examples of eligible economic development activities:

- Acquisition of real property.
- Acquisition, construction or rehabilitation of commercial and industrial buildings and structures, funding for local governments to provide loans for the purchase of capitalized machinery and equipment with a useful life of at least five years.
- Energy conservation improvements designed to encourage the efficient use of energy.
- Public, commercial or industrial real property or infrastructure improvements, including railroad spurs or similar extensions, tied to a specific project in a public or private easement.

²⁵ *Id.* at 13.

²⁶ *Id.* at 13-14.

²⁷ *Id.* at 9.

- Activities to remove barriers that restrict access for elderly or handicapped to publicly owned or privately owned buildings, facilities, and improvements; and
- Activities designed to provide job training and placement.

According to HUD, each state takes a different approach to economic development in its CDBG Program, reflecting the unique needs and established priorities of the state. One state may choose to fund only single-user deals emphasizing manufacturing facilities which promote economic diversification or another state may encourage regional revolving loan funds focusing on revitalizing small town business districts.²⁸

Emergency Set-Aside Funding

DEO is authorized to set aside up to five percent of the funds annually for use in any eligible local government for which an emergency or natural disaster has declared by executive order. Such funds may only be provided to a local government to fund eligible emergency-related activities when no other federal, state, or local funds are available.²⁹

Citizen Participation

Local governments applying for Small Cities CDBG Program funding are required to:

- Make available to the public information concerning the amounts of funds available for various activities and the range of activities that may be undertaken.
- Hold at least one public hearing to obtain the views of citizens on community development needs.
- Develop and publish a summary of the proposed application that will provide citizens with an opportunity to examine the application's contents and submit comments.
- Consider any comments and views expressed by citizens on the proposed application and, if appropriate, modify the proposed application.
- Hold at least one public hearing in the jurisdiction in which the project is to be implemented to obtain the views of citizens on the final application prior to its submission to DEO.

The local government is required to establish a citizen advisory task force composed of citizens in the jurisdiction in which the proposed project is to be implemented to provide input relative to all phases of the project.³⁰

At the state level, DEO is required to establish an advisory committee to participate in designing, administering, and evaluating the program and linking the program with other housing and community development resources.³¹ According to DEO, this advisory committee has not been active since 2004.³²

Section 108 Loan Guarantee Program

Section 108 is the loan guarantee provision of the CDBG program.³³ Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects. It allows eligible communities to transform a small portion of their CDBG funds into federally guaranteed loans large enough to pursue physical and economic revitalization projects. Such public investment is often needed to encourage private economic activity, providing the initial resources that private firms and individuals may need to invest in distressed areas. Section 108 loans are not risk-free, however; the principle security for the loan guarantee is a pledge by the state of its current and future CDBG funds.³⁴

²⁸ See *supra* note 9 at 2-82.

²⁹ Section 290.044(4), F.S.

³⁰ Section 290.046(5) and (6), F.S.

³¹ Section 290.048(7), F.S.

³² House Economic Development & Tourism Subcommittee staff conversation with staff of the Florida Small Cities Community Development Block Grant Program, January 24, 2013.

³³ 24 C.F.R. 570, Subpart M, Loan Guarantees.

³⁴ U.S. Department of Housing and Urban Development, Section 108 Loan Guarantee Program, Loan Details, Security http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/108 (last visited January 22, 2013).

Activities eligible for Section 108 financing include:³⁵

- Economic development activities eligible under CDBG;
- Acquisition of real property;
- Rehabilitation of publicly owned real property;
- Housing rehabilitation eligible under CDBG;
- Construction, reconstruction, or installation of public facilities (including street, sidewalk, and other site improvements);
- Related relocation, clearance, and site improvements;
- Payment of interest on the guaranteed loan and issuance costs of public offerings;
- Debt service reserves; and
- Public works and site improvements.

DEO is authorized to pledge existing revenues on deposit or projected future revenues in the Florida Small Cities CDBG Program in order to guarantee the payment of principal or interest on a loan.³⁶

Upon a determination by DEO that the application meets eligibility requirements and the applicant has submitted the proposed activity to a loan underwriter for documentation of financial feasibility, DEO is required to submit all applications to HUD for approval, in the order received.³⁷ The local government must provide evidence to DEO that alternative financing was investigated and determined to be unavailable or insufficient to meet the financing needs of the activity.³⁸

The maximum amount of loan guarantee commitments that any eligible local government may receive may be limited to \$7 million.³⁹ The maximum amount of loan guarantee commitments statewide may not exceed an amount equal to five times the amount of the most recent grant received by DEO under the Florida Small Cities CDBG Program.⁴⁰ Loans guaranteed by the program must be repaid within 20 years.⁴¹

*Current Section 108 Loans:*⁴²

HUD has approved three Section 108 loans since the inception of Florida's Small Cities CDBG. In 2001, HUD approved the first Section 108 Loan for a major economic development project in the City of Alachua (Alachua County). This loan, in the amount of \$2,250,000, provided infrastructure for the development of a Dollar General Distribution Center that created 448 new jobs for low and moderate-income citizens. The City of Key West addressed critical housing needs with a \$16 million loan that was approved in 2003. The project funded the rehabilitation of 144 housing units at Poinciana Plaza, a former military base housing area.

In 2004, the City of Sebring received a loan for \$5,250,000 to restore a hotel, historic Harder Hall. In late 2006, the developer for the project, Joran Realty, experienced financial shortfalls, filed bankruptcy and work ceased on the project. The city, who now holds possession of the property, foreclosed on the loan. The value of the property is reported to exceed the loan amount owed. The hotel and accompanying property are currently being marketed for sale and proceeds will be used to pay back the loan. The city reports that it is current with interest payments to HUD.

*Florida Small Cities CDBG Funds Awarded 2009-2011*⁴³

FFY 2009:	\$28,531,157
FFY 2010:	\$29,565,984
FFY 2011:	\$24,840,889

³⁵ *Id.*

³⁶ Section 290.0455(3), F.S.

³⁷ Section 290.0455(4), F.S.

³⁸ Section 290.0455(7), F.S.

³⁹ See 24 C.F.R., s. 570.705.

⁴⁰ Section 290.0455(5), F.S.

⁴¹ Section 290.0455(6), F.S.

⁴² Florida Department of Economic Opportunity, Division of Community Development, Email dated January 29, 2013.(On file with the House Economic Development & Tourism Subcommittee.)

⁴³ *Id.*

2012 Allocation	\$22,887,374
State Administration (unmatched)	\$100,000
2% State Administration (matched with GR)	\$457,747
2.5% Emergency Set-Aside	\$572,184
1% Training/Technical Assistance	\$228,874
TOTAL PASS THROUGH	\$21,528,569
Neighborhood Revitalization	\$8,826,713
Housing Rehabilitation	\$3,444,571
Economic Development	\$8,611,428
Commercial Revitalization	\$645,857

Effect of Proposed Changes

Legislative Intent and Purpose

The bill amends the legislative intent and purpose of the Small Cities Community Development Block Grant Program Act to include economic need as one of the factors that make a Florida community eligible to participate in the program and includes economic development programs as an activity for such communities to undertake. The bill also clarifies that community and economic development activities will assist communities in reversing community decline and restore community vitality. The definition of “persons of low and moderate income” is clarified by including a reference to the federal definition used in the Code of Federal Regulations.

Program Administration and Distribution of Funds

The bill requires DEO to develop, by rule, the guidelines for the distribution of the Small Cities CDBG Program funds through a competitive selection process. The bill directs DEO to define broad community development objectives. However, community development objectives must still meet the national objectives outlined in the Code of Federal Regulations. The bill deletes a requirement that applicants compete against each other in specific grant categories and clarifies that emergency set-aside funds are only provided to a local government when no other source of federal, state, or local disaster assistance is available.

Section 108 Loan Guarantee Program

The bill revises the provisions relating to the Section 108 Loan Guarantee Program to reduce the risk to the state and eligible local governments. The bill requires an applicant approved by HUD to receive a Section 108 loan to enter into an agreement with DEO, which requires the applicant to pledge half the amount necessary to guarantee the loan in the event of default.

The bill clarifies that DEO is directed to review all Section 108 loan applications in the order received, subject to a determination that each application meets all eligibility requirements and has been deemed financially feasible by a loan underwriter approved by DEO. If the statewide maximum available for loan guarantee commitments has not been committed, then DEO is authorized to submit the Section 108 loan application to HUD, with a recommendation that the loan be approved, with or without conditions, or be denied.

In order to reduce the state’s risk, the bill reduces from \$7 million to \$5 million the maximum amount of an individual loan guarantee commitment that an eligible local government may receive and reduces the maximum amount of loan guarantee commitments statewide from 5 times to 2 times the amount of the most recent grant received by DEO under the Small Cities CDBG Program. If a local government defaults on a Section 108 loan requiring DEO to reduce its annual grant award in order to pay the annual debt service on the loan, any future CDBG Program funds that the local government receives

⁴⁴ *Id.* Funds are not available for new Planning and Design Specifications grants in FFY 2012; however, construction funding for previously awarded planning grants will be made available from deobligated funds. (Deobligated funds are funds left over from grants that close out at amounts lower than the original funding.) See *supra* note 24 at 4.

must be reduced in the amount equal to the amount of the state's grant award used in payment of the debt service on the loan.

Additionally, if a local government is a recipient of a Section 108 loan guarantee through the Small Cities CDBG Program and is granted entitlement status by HUD prior to paying the loan in full, the local government must pledge its CDBG entitlement allocation as a guarantee of its previous loan and request HUD to release DEO as the guarantor of the loan.

Grant Applications, Procedures, and Requirements

The bill permits DEO to establish application procedures by rule. With the exception of economic development projects, each local government eligible to apply for a grant during an application cycle may submit one application for a non-economic development project during the application cycle.

A local government that is eligible to apply for an economic development grant may apply up to three times each funding cycle for an economic development grant and is permitted to have more than one open economic development grant. DEO is required to establish minimum criteria pertaining to the number of jobs created for persons of low or moderate income, the degree of private sector financial commitment, and the economic feasibility of the proposed project. A grant may not be awarded until DEO completes a site visit to verify the information provided in the application.

DEO must rank each application received based on criteria established by rule. The rule may take into consideration factors, such as community need, poverty levels, unemployment, condition of physical structures, and low and moderate populations. The ranking system must incorporate a procedure intended to eliminate or reduce any existing population-related bias that places exceptionally small communities at a disadvantage in the competition of funds.

Project funding must be determined by the rankings established in each application cycle. If economic development funds remain available after an application cycle closes, then funds will be awarded to eligible projects on a first-come, first-served basis until funds for this category have been fully obligated.

Citizen Participation

All citizen participation provisions required by HUD remain as in current law. However, the provision requiring a local government to establish a citizen advisory task force is deleted. According to DEO, many of the eligible local governments are unable to encourage citizens to participate on the task force or meetings are not properly noticed, which has impacted the ability for several local governments to apply for funding. Citizens will continue to have the opportunity to attend public hearings and comment on the proposed application and project.

Establishment of Grant Ceilings

The bill directs DEO to adopt rules to establish grant ceilings; the maximum percentage of block grant funds which an eligible local government can use for administrative costs; the grant administration procurement procedures for eligible local governments; and the maximum amount of funds that may be spent on architectural and engineering costs by an eligible local government.

An eligible local government is prohibited from contracting with the same individual or business entity for more than one service to be performed in connection with a CDBG unless the eligible local government can demonstrate that such individual or business entity is the sole source of the service or is the responsive proposer whose proposal is determined in writing as a result of a competitive process to be the most advantageous to the local government.

The bill clarifies the circumstances under which an application is determined to be ineligible and removes obsolete language relating to the description of proposed service areas. One of the circumstances under which an application may be rejected – a misrepresentation that is not a mathematical error, which may be discovered and corrected by readily computing available numbers or formulas provided in the application is deleted. According to DEO, this provision is difficult to prove and is not valuable criteria. The bill also deletes DEO's authority to establish an advisory committee of no more than 13 members to participate in designing, administering and evaluating the Small Cities CDBG

Program and linking the program with other housing and community development resources. According to DEO, the advisory committee has not been active in since 2004.

Reemployment Assistance

Present Situation

The Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own, as determined by state law, and meet the requirements of state law. The program is administered as a partnership of the federal government and the states.

Florida's Reemployment Assistance (RA) Program is funded solely by employers who pay quarterly state reemployment taxes provided in ch. 443, F.S., and annual payroll taxes under the Federal Unemployment Tax Act.⁴⁵ State reemployment taxes are deposited into the Unemployment Compensation Trust Fund (UC Trust Fund), which are then used to pay reemployment benefits at no cost to eligible workers. Taxes collected from employers pursuant to FUTA fund the administrative costs of the RA Program. A portion of these funds is also used to finance the federal share of the Extended Benefits program, which is available during periods of high unemployment.

In general, states are permitted to set eligibility conditions for benefit recipients, the amount and duration of benefits, and the state tax structure, so long as state provisions are not in conflict with FUTA or the Social Security Act.⁴⁶ DEO is the agency responsible for administering the RA program.⁴⁷

Benefit Structure

Qualified claimants may receive state reemployment benefits equal to 25 percent of their wages, not to exceed \$6,325 in a benefit year.⁴⁸ Benefits range from a minimum of \$32 to a maximum weekly benefit amount of \$275 for up to 23 weeks, depending on the claimant's length of prior employment and wages earned.⁴⁹

The number of benefit weeks and total benefit amount is subject to the "Florida average unemployment rate," which is used to determine the maximum benefit weeks a claimant may receive. If the Florida average unemployment rate is 10.5% or higher, a claimant is eligible for up to a maximum of 23 weeks. If the Florida average unemployment rate is 5% or below, the maximum number of available weeks is 12. Each 0.5% increment in the unemployment rate above 5% adds an additional week of benefits.

To receive unemployment compensation benefits, claimants must meet certain monetary and non-monetary eligibility requirements.⁵⁰ Key eligibility requirements include a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.

Tax Structure

Through the FUTA, the IRS levies an unemployment tax of 6.0% on employers.⁵¹ This tax is applied to a taxable wage base of \$7,000 per employee. Federal law provides employers up to a 5.4% credit against that tax. Due to having outstanding federal advances for more than two years, Florida had its FUTA tax credit reduced by 0.6% for the 2012 tax year.

⁴⁵ Federal Unemployment Tax Act is codified at 26 U.S.C. 3301-3311.

⁴⁶ Title III, Title IX, and Title XII of the Social Security Act.

⁴⁷ Sections 20.60(5)(c)(3) and 443.171, F.S.

⁴⁸ Section 443.111(5), F.S.

⁴⁹ Section 443.111(3), F.S. A benefit week begins on Sunday and ends on Saturday.

⁵⁰ Section 443.091(1), F.S.,

⁵¹ The FUTA surcharge of .02% expired on June 30, 2011. This reduced the federal tax rate for employers from 6.2% to 6.0%.

In addition to FUTA, Florida employers pay a state reemployment tax which funds the UC Trust Fund, an account used to pay weekly benefits. Currently, employers pay quarterly state reemployment taxes on the first \$8,000 of each employee's annual wages.⁵²

An employer's initial state tax rate is 2.7 percent.⁵³ After an employer is subject to benefit charges for 8-calendar quarters, the standard tax rate is 5.4 percent, but may be adjusted down to a low of 1.0 percent.⁵⁴ The adjustment in the tax rate is determined by calculating a statutory formula that incorporates an employer's experience rating⁵⁵, size of the UC Trust Fund, and other socialized costs.

Fraudulent Claims

Under current law, claimants found to be collecting benefits fraudulently are disqualified from receiving benefits from the date the fraudulent claim was made. This disqualification may continue up to one year from the date DEO discovers a fraudulent claim and until any fraudulent overpayments are repaid in full.⁵⁶ Federal law requires states to assess a penalty, equal to at least 15 percent of the amount overpaid, on any claimant who fraudulently receives benefits.⁵⁷ Currently, Florida does not apply a penalty for fraudulent overpayments.

Interest Assessments

When persistent high unemployment causes state UC Trust Funds to fall into deficit, states are authorized to seek advances from the federal government in order to continue the payment of reemployment benefits. Since 2009, Florida has borrowed \$3.5 billion and, of this total, \$647 million remains outstanding. According to the Revenue Estimating Conference (REC), all federal advances should be repaid by June of 2013 and a final interest payment of \$9.6 million will be due on September 30, 2013.

Section 443.131(5), F.S., imposes an additional assessment on employers to pay the interest on federal advances. Using the interest estimate provided by the REC, the Department of Revenue is required to calculate and bill the assessment before February 1st of this year. An employer has until June 30th to pay this assessment. Current law provides that any remaining assessments on deposit in the Audit and Warrant Clearing Trust Fund are to be credited to employer accounts after all federal advances and associated interest due has been paid.

Confidential Information

Federal regulations require Florida to provide penalties for the unlawful disclosure of confidential information related to the RA Program.⁵⁸ Florida's penalties were inadvertently removed from statute in 2012.

Reemployment Assistance Claims and Benefits Information System

Section 443.1113, F.S., provides for DEO to create a unified internet portal to replace several outdated electronic processing systems. The system is required to be fully operational by June 30, 2013.⁵⁹ According to DEO, the vendor deploying the system will be unable to meet this deadline.

Effect of Proposed Changes

Fraudulent Claims

The bill assesses a penalty, equal to 15 percent of the amount overpaid, on any claimant who fraudulently acquires reemployment benefits. Any recovered penalties must be deposited into the Unemployment Compensation Trust Fund.

⁵² Section 443.1217(2), F.S.

⁵³ Section 443.131(2)(a), F.S.

⁵⁴ Section 443.131(2)(b), F.S.

⁵⁵ Section 443.131(3)(b), F.S.

⁵⁶ Section 443.101(6), F.S.

⁵⁷ The Trade Adjustment Assistance Extension Act of 2011, P.L. 112-40.

⁵⁸ 20 C.F.R. part 603.

⁵⁹ Section 443.1113(4)(b), F.S.

Interest Assessments

The bill authorizes DOR to use assessments on deposit in the Audit and Warrant Clearing Trust Fund and any earned interest to pay the interest on advances received from the federal government. Further, the bill provides that no additional assessment on employers may occur if remaining assessments on deposit, plus any earned interest, is at least 80 percent of the estimated amount of the interest due on federal advances. The bill also provides that any excess assessments will be transferred to the Unemployment Compensation Trust Fund four months after all federal advances are repaid. The provisions related to interest assessments on federal advances will sunset on July 1, 2014.

Confidential information

The bill provides penalties for the unlawful disclosure of confidential information.⁶⁰ This provision aligns s. 443.1715, F.S., with federal requirements and corrects a drafting error.

Reemployment Assistance Claims and Benefits Information System

The bill extends the deadline by which the system must be operational to June 30, 2014.

VISIT Florida Board of Directors

Present Situation

The Florida Tourism Industry Marketing Corporation (VISIT Florida) board of directors is comprised of 31 tourism-related members, appointed by EFI in conjunction with DEO. The board has 16 members, appointed as to equitably represent all geographic areas of the state, with no fewer than two members from any of the following regions:

- Region 1: Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington Counties.
- Region 2: Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Marion, Nassau, Putnam, St. Johns, Suwannee, Taylor, and Union Counties.
- Region 3: Brevard, Indian River, Lake, Okeechobee, Orange, Osceola, St. Lucie, Seminole, Sumter, and Volusia Counties.
- Region 4: Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.
- Region 5: Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.
- Region 6: Broward, Martin, Miami-Dade, Monroe, and Palm Beach Counties.⁶¹

The 15 additional tourism-industry-related members include one representative from the statewide rental car industry; seven representatives from tourist-related statewide associations, including those that represent hotels, campgrounds, county destination marketing organizations, museums, restaurants, retail, and attractions; three representatives from county destination marketing organizations; one representative from the cruise industry; one representative from an automobile and travel services membership organization that has at least 2.8 million members in Florida; one representative from the airline industry; and one representative from the space tourism industry, who will each serve for a term of two years.⁶²

Effect of Proposed Changes

The bill specifies that the Governor will serve ex officio as a nonvoting member of the VISIT Florida Board of Directors.

⁶⁰ The bill provides that a violation under s. 443.1715(1), F.S., is a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

⁶¹ Section 288.1226(4)(a), F.S.

⁶² Section 288.1226(4)(b), F.S.

Enterprise Zones

Present Situation

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 65 enterprise zones.⁶³

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area:

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

An area nominated by a county or municipality, or a county and one or more municipalities together, for designation as an enterprise zone must meet the following criteria:

- The selected area does not exceed 20 square miles.
- The selected area must have a continuous boundary, or consist of not more than three noncontiguous parcels, and
- The selected area does not exceed the following mileage limitation.⁶⁴

Community Population	Mileage Limit
150,000 or more	20 sq. mi.
50,000 - 149,999	10 sq. mi.
20,000 - 49,999	5 sq. mi.
7,500 - 19,999	3 sq. mi.
7,499 or less	3 sq. mi.

The Department of Economic Opportunity is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than thirteen, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and

⁶³ 2013 Fact Sheet, Florida Enterprise Zone Program, The Department of Economic Opportunity, on file with the Economic Development & Tourism Subcommittee.

⁶⁴ Section 290.0055(4)(a) and (b), F.S.

- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources—transportation, housing, community development, public safety, education, and environmental concerns—will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available Incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone - Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid.
- Business Equipment Used in an Enterprise Zone - Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000 or 97 percent of the tax paid.
- Rural Enterprise Zone Jobs Credit against Sales Tax - Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.
- Urban Enterprise Zone Jobs Credit against Sales Tax - Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.
- Business Property Used in an Enterprise Zone - Provides a refund for sales taxes paid on the purchase of certain business property, up to \$5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.
- Community Contribution Tax Credit - Provides 50 percent sales tax refund for donations made to local community development projects.
- Electrical Energy Used in an Enterprise Zone - Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax - Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax - Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.
- Enterprise Zone Property Tax Credit - Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.

- Community Contribution Tax Credit - Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.

Effect of Proposed Changes

Amends s. 290.0055 (6)(d)1, F.S., to allow for any enterprise zone that is at least 15 square miles and less than 20 square miles and includes a portion of the state designated as a rural area of critical economic concern (RACEC) to expand the boundary of the enterprise zone up to 3 miles. Also, any enterprise zone that is at least 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 5 miles.

An application to expand the boundary of an enterprise zone under the new criteria must be submitted by December 31, 2013.

The bill provides an effective date of July 1, 2013.

B. SECTION DIRECTORY:

Section 1: Amends s. 20.60(10), F.S., relating to the Department of Economic Opportunity; creation; powers; and duties, to change the due date of DEO's annual report from January 1 to November 1 and directs DEO to incorporate various economic development reports into the agency's annual report prepared in consultation with Enterprise Florida, Inc. on the condition of the business climate and economic development in the state and submitted to the Governor and Legislature.

Section 2: Amends s. 220.194(9), F.S., relating to corporate income tax credits for spaceflight projects, to require a summary of the activities relating to the Florida Space Business Incentives Act be included in the annual incentives report required in s. 288.907, F.S.

Section 3: Amends s. 288.012(3), F.S., relating to the State of Florida international offices; state protocol officer; protocol manual, to require each international office to submit its annual report to Enterprise Florida, Inc.(EFI) for inclusion in EFI's required annual report pursuant to s. 288.906, F.S.

Section 4: Amends s. 288.061(3), F.S., relating to economic development incentive applications, to require contractor performance validation be included in the annual incentives report pursuant to s. 288.907, F.S.

Section 5: Amends s. 288.0656(8), F.S., relating to the Rural Economic Development Initiative, to require its annual report to be included as a supplement to DEO's annual report pursuant to s. 20.60, F.S.

Section 6: Amends s. 288.095(3), F.S., to delete the requirement for EFI to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on activities relating to the Economic Development Incentives Account, including an analysis of benefits and costs, types of projects supported, and employment and investment created.

Section 7: Amends s. 288.106(7)(d), F.S., relating to the tax refund program for qualified target industry businesses, to require DEO to submit its findings and recommendations regarding DEO's attempt to determine the causes for a business's failure to complete its agreement in the annual incentives report pursuant to s. 288.907, F.S.

Section 8: Amends s. 288.1081(8), F.S., relating to Economic Gardening Business Loan Pilot Program, to report information regarding this program be included in DEO's annual report pursuant to s. 20.60, F.S., rather than submitted to the Governor and Legislature as a separate report.

Section 9: Amends s. 288.1082(8), F.S., relating to the Economic Gardening Technical Assistance Pilot Program to require the report information relating to this program be included in DEO's annual

report pursuant to s. 20.60, F.S., rather than submitted to the Governor and Legislature as a separate report.

Section 10: Amends s. 288.1088(3)(e), F.S., relating to the Quick Action Closing Fund, to require contractor performance validation be included in the annual incentives report pursuant to s. 288.907, F.S.

Section 11: Amends s. 288.1089(9) and (11)(a), F.S., relating to the Innovation Incentive Program to delete the requirement that at the conclusion of an innovation incentive award agreement or its early termination, DEO submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing whether recipients of innovation incentive grants achieved its outcomes; providing that such information be included in the annual incentives report pursuant s. 288.907, F.S. The section is further amended to require the report summarizing the activities and accomplishments of the Innovation Incentive Program's grant recipients from the previous 12 months to be included in the annual incentives report pursuant to s. 288.907, F.S.

Section 12: Amends s. 288.1226(4), F.S., relating to the Florida Tourism Marketing Corporation board of directors to specify that the Governor will serve ex officio as a nonvoting member of the board.

Section 13: Amends s. 288.1253(3), F.S., relating to travel and entertainment expenses for the Office of Film and Entertainment to require the annual report of the expenditures of the OFE to be included in the annual report required under the Entertainment Industry Financial Incentive Program pursuant to s. 288.154(10), F.S.

Section 14: Amends s. 288.1254(10), F.S., relating to the Entertainment Industry Financial Incentive Program to change the due date of the annual report from October 1 to November 1 and to require the annual report to include the OFE's expenditure report pursuant to s. 288.1253(3), F.S., and the report detailing the relationship between tax exemptions and incentives to industry growth pursuant to s. 288.1258(5), F.S.

Section 15: Amends s. 288.1258(5), F.S., relating to entertainment industry qualified production companies, to require the annual report on the relationship of tax exemptions and incentives to industry growth to be included in the Entertainment Industry Financial Incentive Program annual report pursuant to s. 288.1254(10), F.S.

Section 16: Amends s. 288.714(3), F.S., relating to the quarterly and annual reports for the Black Business Loan Program, to require the annual report to be included in DEO's annual report pursuant to s. 20.60, F.S.

Section 17: Amends s. 288.7771, F.S., relating to the annual report for the Florida Export Finance Corporation, to require the report be submitted to EFI for inclusions in EFI's annual report pursuant to s. 288.906, F.S., instead of DEO.

Section 18: Amends s. 288.903(3), (4), and (5), F.S., relating to the duties of EFI, to require EFI to prepare the annual incentives report in conjunction with DEO pursuant to s. 288.907, F.S.

Section 19: Add subsection (3) to s. 288.906, F.S., relating to EFI's annual report, to provide that the annual report of the Florida Export Finance Corporation pursuant to s. 288.7771, F.S., and the report on international offices pursuant to s. 288.012, F.S., must be included as supplements to EFI's annual report.

Section 20: Amends s. 288.907(1), F.S., relating to the annual incentives report, to provide that EFI must prepare the annual incentives report in conjunction with DEO to include tax refunds paid or other payments made out of the Economic Development Incentives Fund and the types of projects supported; requiring a separate analysis of the impact of tax refunds on rural communities, brownfield areas, distressed urban communities, and state enterprise zones pursuant to s. 290.0065, F.S.; list the name and tax refund amount for each business that has received a tax refund under the qualified defense contractor and space flight business tax refund pursuant to s. 288.1045, F.S., and the tax refund program for qualified target industry businesses pursuant to s. 288.106, F.S.; include recommendations for changes to underutilized tax incentive programs; include information related to the validation of contractor performance required under s. 288.061, F.S.; and beginning in 2014, summarize the activities related to the Florida Space Business Incentive Act pursuant to s. 220.194, F.S.

Section 21: Amends s. 288.92(3), F.S., relating to the divisions of EFI, to remove the report due date and to require the division annual reports to be included in EFI's annual report pursuant to s. 288.906, F.S.

Section 22: Amends s. 288.95155(5), F.S., relating to the Florida Small Business Technology Growth Program, to require EFI to include the program's annual report in EFI's annual incentives report pursuant to s. 288.907, F.S.

Section 23: Amends s. 290.0055 (6)(d)1, F.S., relating to enterprise zones, to allow for any enterprise zone that is at least 15 square miles and less than 20 square miles and includes a portion of the state designated as a rural area of critical economic concern (RACEC) to expand the boundary of the enterprise zone up to 3 miles. Also, any enterprise zone that is at least 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 5 miles.

Section 24: Amends s. 290.0056(11), F.S., relating to the Florida Enterprise Zone Development Agency, to require the Agency to submit the required annual report before October 1 rather than December 1 to be included in DEO's annual report pursuant to s. 20.60, F.S.

Section 25: Amends s. 290.014, F.S., relating to annual reports for enterprise zones, to require information compiled by the Department of Revenue detailing the usage and revenue impact by county of the state incentives authorized under the Florida Enterprise Zone Act to be submitted to DEO annually by October 1 rather than February 1 to be included in DEO's annual report pursuant to s. 20.60, F.S.

Section 26: Amends s. 290.0411, F.S., relating to the legislative intent and purpose of the Florida Small Cities Community Development Block Grant Act, to include economic need as one of the factors that make a Florida community eligible to participate in the program and includes economic development programs as an activity for such communities to undertake.

Section 27: Amends s. 290.042(1) and (6), F.S., relating to definitions for the Florida Small Cities Community Development Block Grant Act, to make a technical change and to reference the Code of Federal Regulations under "persons of low or moderate income."

Section 28: Amends s. 290.044(2), (3), and (4), F.S., relating to the Florida Small Cities Community Development Block Grant Act (CDBG) Program Fund, to require DEO to adopt rules establishing guidelines for the distribution of the Small Cities CDBG Program funds through a competitive selection process; direct DEO to define broad community development objectives consistent with national objectives outline in the Code of Federal Regulations; remove the specific program categories currently provided in statute; clarify that emergency set-aside funds are only provided to a local government to fund eligible emergency-related activities when no other source of federal, state, or local disaster assistance is available.

Section 29: Amends s. 290.0455, F.S., relating to the Small Cities CDBG Loan Guarantee Program, to rename the section; substantially revise the provisions relating to the Section 108 Loan Guarantee Program to require an applicant approved by HUD to receive a Section 108 loan to enter into an agreement with DEO, which requires the applicant to pledge half the amount necessary to guarantee the loan in the event of default to limit the amount of risk of such loans to the state.

Section 30: Amends s. 290.046, F.S., relating to applications for grants, to provide that DEO will establish rules regarding the application process; substantially revises the Small Cities CDBG Program application procedures and requirements.

Section 31: Amends s. 290.047, F.S., to substantially revise the provisions relating to the establishment of grant ceilings and maximum administrative cost percentages; directs DEO to adopt rules to establish grant ceilings; the maximum percentage of block grant funds which an eligible local government can use for administrative costs; the grant administration procurement procedures for eligible local governments; and the maximum amount of funds that may be spent on architectural and engineering costs by an eligible local government.

Section 32: Amends s. 290.0475, F.S., relating to the rejection of grant applications, to delete obsolete language; clarify the circumstances under which an application is determined to be ineligible; and make technical changes.

Section 33: Amends s. 290.048, F.S., relating to the general power of DEO under the Florida Small Cities CDBG Act, to remove obsolete language relating to the description of proposed service areas.

Section 34: Amends s. 331.3051(11), F.S., relating to the duties of Space Florida, to change the due date of the annual performance report from September 1 to November 30 and requires the annual report to include operations information as required under s. 331.310(2)(e), F.S.

Section 35: Amends s. 331.310(2)(e), F.S., relating to the powers and duties of Space Florida's board of directors, to require the annual report of operations to be submitted as a supplement to the performance annual report pursuant to s. 331.3051(11), F.S.

Section 36: Amends s. 443.1113(4)(b), F.S., extending the full deployment date of the Reemployment Assistance Claims and Benefits Information System to June 30, 2014.

Section 37: Amends 443.131(5), F.S., providing for when the Revenue Estimating Conference shall make an estimate on the amount of interest due on federal advances; providing for when a reemployment tax assessment may not be made; requiring assessments on deposit to be available to pay interest on federal advances; requiring excess funds to be transferred to the Unemployment Compensation Trust Fund after a certain time period; providing an expiration date of July 1, 2014.

Section 38: Amends s. 443.151(6)(a), F.S., imposing a penalty of 15 percent on reemployment benefits overpaid due to fraud.

Section 39: Amends s. 443.1715(1), F.S., imposing penalties for the unlawful disclosure of confidential information related to the Reemployment Assistance Program.

Section 40: Amends s. 443.191(1), F.S., directing that penalties related to fraudulent reemployment benefits must be deposited into the Unemployment Compensation Trust Fund.

Section 41: Amends s. 446.50(3)(b) and (4), F.S., relating to the Displaced Homemaker Trust Fund, to delete the requirement for the development of a three year state plan to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives; requiring an annual plan be submitted as a part of DEO's annual report pursuant to s. 20.60, F.S.

Section 42: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On February 22, 2013, the Revenue Estimating Conference estimated the bill will have a negative fiscal impact on state revenues of \$120,000 for FY 2013-14, \$100,000 for FY 2014-15, and \$200,000 for FY 2015-16 due to the potential expansion for select enterprise zone boundaries.

See Fiscal Comments.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On February 22, 2013, the Revenue Estimating Conference estimated the bill will have an insignificant negative impact on local government revenues in FYs 2013-14, 2014-15, and 2015-16.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that more eligible local governments apply for and receive funding for eligible activities under the Florida Small Cities CDBG Program, the private sector will benefit.

The bill has the potential to positively impact the economy of select designated enterprise zone areas through job growth and capital investment.

D. FISCAL COMMENTS:

The Unemployment Compensation Trust Fund

The collection of penalties related to fraudulent claims may have a positive impact on the balance of the Unemployment Compensation Trust Fund. In FY 2011-12, DEO issued 25,294 fraud determinations totaling \$33.2 million in overpaid benefits. If these benefits had been subject to the 15 percent penalty, up to an additional \$4.9 million would have been directed to the Unemployment Compensation Trust Fund. However, in FY 2011-12, only 25 percent of the \$33.2 million in overpaid benefits were recovered by DEO.

The bill also provides that when all federal advances are repaid, any excess assessments on deposit in the Audit and Warrant Clearing Trust Fund will be transferred to the Unemployment Compensation Trust Fund. While the amount of funds transferred will likely be minimal, this provision may have a positive impact on the balance of the Unemployment Compensation Trust Fund.

The bill sunsets the statutory provision authorizing an additional assessment on employers for paying interest on federal advances which continue the payment of re-employment benefits. In the event the federal government advances funds for this purpose in the future, the legislature would need to either reauthorize this subsection or find an alternative funding mechanism for paying this interest.

Department of Economic Opportunity

According to DEO, the bill's provision extending the deadline for the Reemployment Assistance Claims and Benefits Information System to be operational will not have a fiscal impact on the state, but may result in additional administrative costs for DEO that can be absorbed within existing resources.

Enterprise Zones

The estimate adopted by the Revenue Estimating Conference assumes the Florida Enterprise Zone Act will sunset on December 31, 2015, as provided under current law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DEO to adopt rules relating to the guidelines for the distribution of Small Cities CDBG Program grants; application procedures; grant ceilings; the maximum percentage of funds which can spent on administrative costs by an eligible local government; and the methodology used to determine the maximum amount of funding that may be spent on architectural and engineering costs by an eligible local government.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 5, 2013, the House Transportation & Economic Development Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment does the following:

- Amends s. 290.0055 (6)(d)1, F.S., to allow for any enterprise zone that is at least 15 square miles and less than 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 3 miles. Also, any enterprise zone that is at least 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 5 miles.