

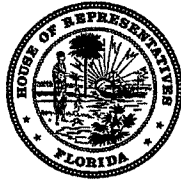
Economic Development & Tourism Subcommittee

Tuesday, February 19, 2013
3:00 p.m. - 5:00 p.m.
12 HOB

Meeting Packet

Will Weatherford
Speaker

Carlos Trujillo
Chair



The Florida House of Representatives

Economic Development and Tourism Subcommittee

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Meeting Agenda
Tuesday, February 19, 2013
Room 12, House Office Building
3:00 p.m. – 5:00 p.m.

- I. Call to Order**
- II. Roll Call**
- III. Welcome and Opening Remarks**
- IV. HB 437 – Community Development**
- V. HB 563 – Reporting Requirements for Economic Development Programs**
- VI. PCB EDTS 13-02 – Development Permits**
- VII. Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 437 Community Development

SPONSOR(S): Davis and others

TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee		Duncan	West
2) Finance & Tax Subcommittee		<i>pdd</i>	<i>PNW</i>
3) Economic Affairs Committee			

SUMMARY ANALYSIS

House Bill 437 clarifies the process used by the Florida Housing Finance Corporation to allocate low-income housing tax credits and other federal and state resources. The bill modifies the annual reporting requirements, clarifies the information and reports included in the FHFC's audited financial statements, and removes obsolete terms and provisions.

The bill extends the expiration date of the Community Contribution Tax Credit to June 30, 2025.

The Revenue Estimating Conference has not determined the fiscal impact to the state as a result of this bill. See FISCAL COMMENTS.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Community Contribution Tax Credit Program

In 1980, the Florida Legislature established the Community Contribution Tax Credit Program (Program) to encourage private sector participation in revitalization and housing projects.¹ The Program offers tax credits, in the form of a refund, to persons who donate to sponsors who have been approved to participate in the Program. Eligible project sponsors² under the Program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards. Eligible projects³ include the construction, improvement or rehabilitation of housing, commercial, industrial or public facilities, and projects that promote entrepreneurial or job development opportunities for low-income persons. A community contribution must be in the form of cash or other liquid assets; real property; goods or inventory; or other physical resources as identified by the Department of Economic Opportunity (DEO).⁴

DEO is responsible for marketing the Program in consultation with the Florida Housing Finance Corporation and other statewide and regional housing and financial intermediaries.⁵ DEO is also responsible for administering the Program by reviewing sponsor project proposals and tax credit applications. To date, 131 sponsors have been approved to participate in the Program.⁶ After the taxpayer receives approval for community contribution tax credits, it must claim the credit from the Department of Revenue (DOR).

The tax credits are equal to 50 percent of the amount donated up to \$200,000 annually.⁷ The tax credit may be applied toward the donor's sales and use, corporate, or insurance premium tax obligations.⁸ The taxpayer may only apply the credits toward one tax obligation. Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.⁹ Unused credits against sales taxes may be carried forward for three years.¹⁰

The total amount of tax credit which may be granted for the Community Contribution Tax Credit Program is \$10.5 million annually for projects that provide homeownership opportunities for low-income and very-low-income households and \$3.5 million for all other projects.¹¹ During FY 2011-2012, 333 tax credit applications in 63 local governments were approved by DEO.¹²

The Florida Legislature has amended the dollar cap and the expiration date of the Program on numerous occasions. The Program began with an annual \$3 million cap and it is currently \$14 million and has reached the cap every fiscal year. The Community Contribution Tax Credit Program expires June 30, 2015.

¹ Chapter 80-249, L.O.F.

² See ss. 212.08(5)(p)2.c., F.S.; 220.183(2)(c), F.S.; and 624.5105(2), F.S.

³ See ss. 212.08(5)(p)2.b.; and 220.183(2)(d), F.S. See also s. 220.03(1)(t), F.S.

⁴ Sections 212.08(5)(p)2.a., F.S.; 220.183(2)(a), F.S.; and 624.5105(5)(a), F.S.

⁵ Section 220.183(4), F.S.

⁶ Florida Department of Economic Opportunity, Community Contribution Program Staff, Document on file in the House Economic Development & Tourism Subcommittee, February 4, 2013.

⁷ Sections 220.183 (1)(a) and (b), F.S.; 212.08(5)(p),

⁸ See ss. 212.08(5)(p), F.S.; 220.183, F.S.; and 624.5105, F.S.

⁹ Sections 220.183(1)(e), F.S.; and 624.5105, F.S.

¹⁰ Section 212.08(5)(p)1.b., F.S.

¹¹ Sections 212.08(5)(p)1.e., F.S.; 220.183(1)(c), F.S.; and 624.5105(1)(c), F.S.

¹² See supra note 6.

STORAGE NAME:

DATE:

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC)¹³ is the state entity primarily responsible for encouraging the investment of private capital in residential housing and stimulating the construction and rehabilitation of affordable housing in Florida.¹⁴ Originally, federal funds were the only resources that funded housing programs administered by the FHFC. To leverage these federal funds, in the late 1980s the Legislature appropriated funding for state programs. The FHFC administers a number of multifamily and single family housing programs, such as the State Apartment Incentive Loan Program, Florida Affordable Housing Guarantee Program, and the First Time Homebuyer Program, that assist Floridians in obtaining safe, decent affordable housing.

Chapter 2012-127, Law of Florida – Audit and Review of the FHFC

In 2012, the Legislature directed the Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a joint audit and review of the programs and operations of the FHFC and to submit written reports to the Legislature no later than December 1, 2012.¹⁵ Both reports were issued November 2012. The Auditor General's report addressed the FHFC's internal management and financial and operational controls and included recommendations. OPPAGA's report examined the corporation's governance structure, decision-making, and performance and identified areas for improvement.

Included in the Auditor General's report was the recommendation that the FHFC revise its travel policy to conform to the requirements of state law and s. 420.511(4), F.S., relating to the annual financial audit, be revised to identify the specific programs that should be subject to an annual compliance audit.¹⁶ Additional findings recommended the FHFC modify internal operations and/or procedures and did not require statutory modifications. The FHFC has either further explained the rationale for its operating procedures or has agreed with and adopted the Auditor General's recommendations.¹⁷

OPPAGA's report examined the corporation's governance structure, decision-making, and performance and identifies areas for improvement.¹⁸ OPPAGA report summary stated:

The Florida Housing Finance Corporation's board and executive director, the Governor, and the Legislature have roles in overseeing and directing corporation programs and staff. We found no compelling reason to change the current governance structure. However, to expand its role and enhance communication with the corporation, the Legislature could consider amending state law to provide for board appointments by the President of the Senate and the Speaker of the House of Representatives.

A major focus of the corporation's decision making is distributing federal low-income housing tax credits for affordable rental housing developments. To address concerns about the process, we suggest that the corporation consider reducing the frequency of rule development workshops; revising the time allowed for applicants to identify problems with each other's projects; and increasing the emphasis on considering market feasibility and project costs.

Most of the corporation's performance measures provide information on program outputs rather than program outcomes or cost-effectiveness. To enhance the

¹³ The Florida Housing Finance Corporation (FHFC) was created as a public corporation within the Department of Economic Opportunity (DEO). However, the FHFC is a separate budget entity and is not subject to the control, supervision, or direction of DEO. Section 420.504, F.S.

¹⁴ Section 420.502(7), F.S.

¹⁵ Section 3, ch. 2012-127, L.O.F.

¹⁶ State of Florida, Auditor General, *Florida Housing Finance Corporation – Audit Performed Pursuant to Chapter 2012-127, L.O.F.*, Report No. 2013-047, November 2012, available at http://www.myflorida.com/audgen/pages/pdf_files/2013-047.pdf.

¹⁷ *Id.*

¹⁸ The Florida Legislature, Office of Program Policy Analysis and Government Accountability, *The Florida Housing Finance Corporation Could Improve Its Tax Credit Allocation Process and Develop Better Performance Measures*, November 2012, Report No. 2012-10, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1210rpt.pdf>.

quality and utility of the data the corporation reports, the Legislature could consider expanding the statutorily required performance measures.¹⁹

FHFC Powers Related to the Allocation of Low-income Housing Tax Credits, the State Apartment Incentive Loan Program, and Other Federal or State Resources

Florida law grants the FHFC with specific powers necessary to carry out activities or implement programs to provide affordable housing.²⁰ Included in such authority is the FHFC's power to use up to 10 percent of its annual allocation of low-income housing tax credits, nontaxable revenue bonds, and State Apartment Incentive Loan Program (SAIL)²¹ funds appropriated by the Legislature. FHFC may allocate available funds by requests for proposals or other competitive solicitation for high-priority affordable housing projects, such as housing to support economic development and job-creation initiatives, housing for veterans and their families, and other special needs populations as determined by the FHFC on an annual basis.²²

Additionally, the Legislature has granted authority to the FHFC to establish, by rule, the procedure for evaluating, scoring, and competitively ranking all applications based on the criteria established under the SAIL Program.²³

Process for Awarding Low-Income Housing Tax Credits and Other Funds

Currently, the FHFC allocates tax credits through a Universal Application Cycle that includes the allocation of other federal and state resources, depending on the availability of funds. In recent years, tax credits have provided the bulk of resources for rental housing developments.²⁴ In an effort to achieve transparency in the awarding of the federal low-income housing tax credits, the FHFC's process has become cumbersome and lengthy. According to the FHFC and documented by OPPAGA, the FHFC's process to allocate low-income housing tax credits occurs in four stages: rulemaking, application, underwriting, and construction and closing. For the last two cycles (2009 and 2011), the time taken to complete the process from the first rule development workshop hearing to the approval of final project rankings ranged from 12 to 14 months.²⁵ After the FHFC's Board of Directors approves final project rankings, developers are invited to credit underwriting, which can take an additional nine months.²⁶ The lengthy process increases the costs for both the FHFC and developers. Additionally, some stakeholders like the corporation's open and transparent rulemaking and application process. However, others are concerned about the complexity of the process.²⁷

FHFC Reporting Requirements: Business Plan, Strategic Plan, and Annual Report

The FHFC is required to develop a business plan for the provision of affordable housing in the state. The business plan must be consistent with the strategic plan²⁸ and must contain certain performance measures and specific performance targets.²⁹ A strategic plan for the provision of affordable housing

¹⁹ *Id.* at 1.

²⁰ See ss. 159.608 and 420.507, F.S.

²¹ The SAIL Program annually provides low interest loans on a competitive basis to for-profit, nonprofit, and public entities to provide affordable housing to very-low-income persons. Program funds provide gap financing to allow developers to obtain the full financing needed to construct multifamily units. Special consideration is given to properties that target specific demographic groups such as the elderly, the homeless, families, and commercial fishing workers and farmworkers. Section 420.5087, F.S.; Florida Housing Finance Corporation, *A Summary of Florida Housing's Programs*, available at <http://www.floridahousing.org/FH-ImageWebDocs/AboutUS/ProgramSummaries.pdf>.

²² Section 420.507(48), F.S.

²³ Section 420.507(22), F.S.

²⁴ *Supra* note 18 at 5.

²⁵ *Id.* at 6

²⁶ *Id.*

²⁷ *Id.* at 7.

²⁸ "Strategic plans" in ch. 186, F.S., were renamed "long-range program plans" pursuant to ch. 2000-371, L.O.F. Each state agency is required to develop a long-range program plan on an annual basis. The plan must provide the framework and context for designing and interpreting the agency budget request. The plan will be developed through careful examination and justification of agency functions and their associated costs. It must be used by the agency to implement the state's goals and objectives. Indicators must be developed to measure service and activity performance. See s. 186.021, F.S.

²⁹ Section 420.511(1), F.S.

relating to the state and regional planning requirements in chapter 186, F.S., is required to be developed annually, in equal partnership with DEO.

The FHFC is also required to submit to the Governor and the Legislature, within 2 months after the end of its fiscal year, a complete and detailed report, which provides the following information:³⁰

- Operations and accomplishments;
- Receipts and expenditures during its fiscal year in accordance with the categories or classifications established by the FHFC for its operating and capital outlay purposes;
- Assets and liabilities at the end of its fiscal year and the status of reserve, special, or other funds;
- A schedule of its bonds outstanding at the end of its fiscal year, together with a statement of the principal amounts of bonds issued and redeemed during the fiscal year; and
- Information relating to the FHFC's activities in implementing the SAIL Program, the Florida Homeownership Assistance Program (HAP),³¹ and the Community Workforce Housing Innovation Pilot Program.³²

The report must include, but not be limited to:³³

- The number of people served, delineated by income, age, family size, and racial characteristics;
- The number of units produced under each program;
- The average cost of producing units under each program;
- The average sales price of single-family units financed under the Florida Homeownership Assistance Program;
- The average amount of rent charged based on unit size on units financed under the SAIL Program;
- The number of persons in rural communities served under each program;
- The number of farmworkers served under each program;
- The number of homeless persons served under each program;
- The number of elderly persons served under each program;
- The extent to which geographic distribution has been achieved in accordance with the provisions of the SAIL Program;
- The success of the Community Workforce Housing Innovation Pilot Program in meeting the housing needs of eligible areas; and
- Any other information the FHFC deems appropriate.

The FHFC must also submit a copy of an annual financial audit of its accounts and records and an annual compliance audit of its programs conducted by an independent certified public accountant performed in accordance with generally accepted auditing standards and government auditing standards.³⁴ Both FHFC's business plan and annual report must recognize the different fiscal periods under which the FHFC, the state, the Federal Government, and local governments operate.³⁵

Effect of Proposed Changes

Community Contribution Tax Credit Program

The bill extends the expiration date of the Community Contribution Tax Credit to June 30, 2025.

Florida Housing Finance Corporation

³⁰ Section 420.511(3)(a), F.S.

³¹ See s. 420.5088, F.S.

³² See s. 420.5095, F.S.

³³ Section 420.511(3)(b), F.S.

³⁴ Section 420.511(4), F.S.

³⁵ Section 420.511(5), F.S.

The bill removes the FHFC's authority to establish a procedure for evaluating, scoring and competitively ranking such applications. Thus, the FHFC would have the flexibility to modify its process of evaluating and selecting applications for funding.

Business Plan and Long-Range Program Plan

The business plan is renamed strategic business plan, which must be consistent with the long-range program plan. Currently, as part of the business plan, the FHFC must compile data on the stimulus of economic activity created by the affordable housing finance programs administered by the FHFC. This information is removed from the business plan and included in the annual report.

Annual Report

The annual report is revised to require the following tenant characteristics for existing rental units financed through all programs administered by the FHFC be included in the annual report:

- The number of households served, delineated by income and age of the head of the household. However, the tenant characteristic data captured would no longer include race.
- The number of households served in large, medium, and small counties as defined pursuant to the SAIL Program³⁶ and the extent to which geographic distribution has been achieved.
- The number of farmworkers and commercial-fishing worker households served.
- The number of homeless households served.
- The number of special needs households served.
- By county, the average rent charged based on unit size. Currently, this information is required to be reported by county.

The required tenant characteristics are required to be captured by household than by persons. According to the FHFC, housing need and supply data is collected on the national level by household and collecting such data by household would permit the FHFC to conduct a more accurate comparison and analysis of its programs and activities.

The annual report must also include:

- The estimated average cost of producing units under each rental or homeownership unit financed under each program in the last fiscal year. Currently, this information is only provided for the SAIL and HAP Programs.
- The number of rental units to which resources have been allocated in the last fiscal year, including income and demographic restrictions.
- By county, the average sales of homeownership units financed in the last fiscal year. Currently, this information is only provided for the HAP Program.
- The number of households served by homeownership programs in the last fiscal year, including the income and age of the homeowner of each household.
- The amount of economic stimulus created by the affordable housing finance programs administered by the FHFC for the most recent year available. This information was originally included the FHFC's business plan.
- For the SAIL Program, a comprehensive list of all closed loans outstanding at the end of the most recent fiscal year, including, but not limited to, development name, city, county, developer, set-aside type, set-aside percentage, affordability term, total number of units, number of set-aside units, lien position, original loan amount, loan maturity date, loan balance at close of year, status of loan, rate of interest, and interest paid.
- For the Affordable Housing Guarantee Program, a list of all guaranteed loans through the close of the most recent fiscal year, including, but limited to, development name, city, county, developer, total number of units, issuer of the bonds, loan maturity date, participation in the U.S. Department of Housing and Urban Development Risk-Sharing Program, original guarantee amount, guarantee amount at close of fiscal year, status of loan guaranteed, and total

³⁶ The SAIL Program defines counties as follows: counties that have a population of 825,000 or more; counties that have a population of more than 100,000 but less than 825,000; and counties that have a population of 100,000 or less. See s. 420.4087, F.S.

outstanding FHFC Affordable Housing Guarantee Revenue Bonds at the close of the most recent fiscal year.

- Any other information the FHFC deems appropriate.

The bill removes a requirement that the annual report include information relating to the success of the Community Workforce Housing Innovation Pilot (CWHIP) Program in meeting the housing needs of eligible areas. This pilot program is no longer funded.

Audited Financial Statements

The bill modifies provisions related to the FHFC's audited financial statements to require the FHFC to submit, within six months after the end of its fiscal year, audited financial statements prepared in accordance with generally accepted accounting principles, which include all assets, liabilities, revenues, and expenses of the FHFC, and a list of all bonds outstanding at the end of its fiscal year. As required in current law, the audit must be conducted by an independent certified public accountant and performed in accordance with generally accepted auditing standards and government auditing standards. However, the bill requires the audit to incorporate all reports, including compliance reports, as required by such auditing standards.

Additional provisions are revised to conform cross-references.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.08, F.S., to extend the expiration date of the application of the community contribution tax credit against the sales and use tax to June 30, 2025.

Section 2: Amends s. 220.183, F.S., to extend the expiration date of the application of the community contribution tax credit against the corporate income tax to June 30, 2025.

Section 3: Amends s. 624.5105, F.S., to extend the expiration date of the application of the community contribution tax credit against the insurance premium tax to June 30, 2025

Section 4: Amends s. 420.507(22)(h), F.S., relating to the powers of the corporation, to clarify the procedure for competitively evaluating and selecting all applications for funding.

Section 5: Amends s. 420.5087(6), F.S., relating to the SAIL Program, to clarify the procedure for competitively evaluating and selecting all applications for funding.

Section 6: Amends s. 420.511, F.S., relating to the FHFC's annual reporting and auditing requirements, to replace obsolete terms; to modify current and require additional information for inclusion in the FHFC's annual report to the Governor and the Legislature; and revises the provisions relating to the annual financial audit to specify what information must be included in the audited financial statements.

Section 7: Amends s. 420.003(4)(b), F.S., relating to the implementation of the housing strategy, to conform cross-references.

Section 8: Amends s. 420.0006, F.S., relating to the authority to contract with the corporation; contract requirements; and nonperformance, to conform cross-references.

Section 9: Amends s. 420.504(1), F.S., relating to public corporation; creation; membership; terms; and expenses to conform cross-references.

Section 10: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Available tax credits under the Community Contribution Tax Credit Program may be taken against sales and use taxes, corporate income taxes, and insurance taxes. The bill may have a negative fiscal impact of up to \$14 million annually for ten years beginning in FY 2015-16, depending on the use of the tax credits.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

With respect to the Community Contribution Tax Credit Program, the bill may have a positive impact on the number of homeownership opportunities for low-income or very-low-income households and other projects such as those which provide job-development opportunities for low-income persons may increase.

To the extent that the Florida Housing Finance Corporation modifies its process for issuing requests for proposals or competitive solicitation in order to allocate funds and low-income housing tax credits, the private sector and the public may benefit.

D. FISCAL COMMENTS:

The table below shows the tax credits granted for housing projects and other community development projects since the cap was increased to \$14 million.

**Community Contribution Tax Credit Program
Tax Credit Summary FY 2006/2007 – FY 2011/2012³⁷**

FISCAL YEAR	TOTAL APPROVED APPLICATIONS	HOUSING TAX CREDITS APPROVED	COMMUNITY DEVELOPMENT TAX CREDITS APPROVED	TOTAL CREDITS APPROVED
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³⁷ Florida Department of Economic Opportunity, Community Contribution Program Staff, Email, January 4, 2013.

2006/07	283	\$10,499,953	\$3,500,000	\$13,999,953
2007/08	286	\$10,500,000	\$3,500,000	\$14,000,000
2008/09	351	\$13,000,000	\$3,500,000	\$16,500,000
2009/10	308	\$10,500,000	\$3,500,000	\$14,000,000
2010/11	308	\$10,500,000	\$3,500,000	\$14,000,000
2011/12	333	\$10,486,406	\$3,500,000	\$13,986,406
TOTALS	1,869	\$65,486,359	\$21,000,000	\$86,486,359

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 does not grant any additional rule-making authority for the Department of Economic Opportunity or the Florida Housing Finance Corporation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to community development; amending ss. 212.08, 220.183, and 624.5105 F.S.; extending the expiration date applicable to the granting of community contribution tax credits against the sales and use tax, corporate income tax, and insurance premium tax for contributions to eligible sponsors of community projects approved by the Department of Economic Opportunity; amending s. 420.507, F.S.; revising the powers of the Florida Housing Finance Corporation; amending s. 420.5087, F.S.; revising provisions relating to state apartment incentive loans to provide for a competitive evaluation and selection process with respect to loan applications; amending s. 420.511, F.S.; requiring the corporation to develop a strategic business plan that is not inconsistent with a long-range program plan relating to affordable housing; requiring the corporation to develop such long-range plan in coordination with the department; revising provisions relating to the required contents and information to be included in the corporation's annual report; requiring the corporation to submit separate audited financial statements that include specified information and incorporate certain reports; amending ss. 420.0003, 420.0006, and 420.504, F.S.; conforming provisions to changes made by this act; providing an effective date.

29 Be It Enacted by the Legislature of the State of Florida:

30

31 Section 1. Paragraph (p) of subsection (5) of section
32 212.08, Florida Statutes, is amended to read:

33 212.08 Sales, rental, use, consumption, distribution, and
34 storage tax; specified exemptions.—The sale at retail, the
35 rental, the use, the consumption, the distribution, and the
36 storage to be used or consumed in this state of the following
37 are hereby specifically exempt from the tax imposed by this
38 chapter.

39 (5) EXEMPTIONS; ACCOUNT OF USE.—

40 (p) Community contribution tax credit for donations.—

41 1. Authorization.—Persons who are registered with the
42 department under s. 212.18 to collect or remit sales or use tax
43 and who make donations to eligible sponsors are eligible for tax
44 credits against their state sales and use tax liabilities as
45 provided in this paragraph:

46 a. The credit shall be computed as 50 percent of the
47 person's approved annual community contribution.

48 b. The credit shall be granted as a refund against state
49 sales and use taxes reported on returns and remitted in the 12
50 months preceding the date of application to the department for
51 the credit as required in sub-subparagraph 3.c. If the annual
52 credit is not fully used through such refund because of
53 insufficient tax payments during the applicable 12-month period,
54 the unused amount may be included in an application for a refund
55 made pursuant to sub-subparagraph 3.c. in subsequent years
56 against the total tax payments made for such year. Carryover

57 credits may be applied for a 3-year period without regard to any
 58 time limitation that would otherwise apply under s. 215.26.

59 c. A person may not receive more than \$200,000 in annual
 60 tax credits for all approved community contributions made in any
 61 one year.

62 d. All proposals for the granting of the tax credit
 63 require the prior approval of the Department of Economic
 64 Opportunity.

65 e. The total amount of tax credits which may be granted
 66 for all programs approved under this paragraph, s. 220.183, and
 67 s. 624.5105 is \$10.5 million annually for projects that provide
 68 homeownership opportunities for low-income or very-low-income
 69 households as defined in s. 420.9071(19) and (28) and \$3.5
 70 million annually for all other projects.

71 f. A person who is eligible to receive the credit provided
 72 for in this paragraph, s. 220.183, or s. 624.5105 may receive
 73 the credit only under the one section of the person's choice.

74 2. Eligibility requirements.—

75 a. A community contribution by a person must be in the
 76 following form:

- 77 (I) Cash or other liquid assets;
- 78 (II) Real property;
- 79 (III) Goods or inventory; or
- 80 (IV) Other physical resources as identified by the
 81 Department of Economic Opportunity.

82 b. All community contributions must be reserved
 83 exclusively for use in a project. As used in this sub-
 84 subparagraph, the term "project" means any activity undertaken

85 by an eligible sponsor which is designed to construct, improve,
 86 or substantially rehabilitate housing that is affordable to low-
 87 income or very-low-income households as defined in s.
 88 420.9071(19) and (28); designed to provide commercial,
 89 industrial, or public resources and facilities; or designed to
 90 improve entrepreneurial and job-development opportunities for
 91 low-income persons. A project may be the investment necessary to
 92 increase access to high-speed broadband capability in rural
 93 communities with enterprise zones, including projects that
 94 result in improvements to communications assets that are owned
 95 by a business. A project may include the provision of museum
 96 educational programs and materials that are directly related to
 97 any project approved between January 1, 1996, and December 31,
 98 1999, and located in an enterprise zone designated pursuant to
 99 s. 290.0065. This paragraph does not preclude projects that
 100 propose to construct or rehabilitate housing for low-income or
 101 very-low-income households on scattered sites. With respect to
 102 housing, contributions may be used to pay the following eligible
 103 low-income and very-low-income housing-related activities:
 104 (I) Project development impact and management fees for
 105 low-income or very-low-income housing projects;
 106 (II) Down payment and closing costs for eligible persons,
 107 as defined in s. 420.9071(19) and (28);
 108 (III) Administrative costs, including housing counseling
 109 and marketing fees, not to exceed 10 percent of the community
 110 contribution, directly related to low-income or very-low-income
 111 projects; and
 112 (IV) Removal of liens recorded against residential

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113 property by municipal, county, or special district local
 114 governments when satisfaction of the lien is a necessary
 115 precedent to the transfer of the property to an eligible person,
 116 as defined in s. 420.9071(19) and (28), for the purpose of
 117 promoting home ownership. Contributions for lien removal must be
 118 received from a nonrelated third party.

119 c. The project must be undertaken by an "eligible
 120 sponsor," which includes:

- 121 (I) A community action program;
- 122 (II) A nonprofit community-based development organization
 123 whose mission is the provision of housing for low-income or
 124 very-low-income households or increasing entrepreneurial and
 125 job-development opportunities for low-income persons;
- 126 (III) A neighborhood housing services corporation;
- 127 (IV) A local housing authority created under chapter 421;
- 128 (V) A community redevelopment agency created under s.
 129 163.356;
- 130 (VI) A historic preservation district agency or
 131 organization;
- 132 (VII) A regional workforce board;
- 133 (VIII) A direct-support organization as provided in s.
 134 1009.983;
- 135 (IX) An enterprise zone development agency created under
 136 s. 290.0056;
- 137 (X) A community-based organization incorporated under
 138 chapter 617 which is recognized as educational, charitable, or
 139 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
 140 and whose bylaws and articles of incorporation include

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141 affordable housing, economic development, or community
 142 development as the primary mission of the corporation;
 143 (XI) Units of local government;
 144 (XII) Units of state government; or
 145 (XIII) Any other agency that the Department of Economic
 146 Opportunity designates by rule.

147
 148 In no event may a contributing person have a financial interest
 149 in the eligible sponsor.

150 d. The project must be located in an area designated an
 151 enterprise zone or a Front Porch Florida Community, unless the
 152 project increases access to high-speed broadband capability for
 153 rural communities with enterprise zones but is physically
 154 located outside the designated rural zone boundaries. Any
 155 project designed to construct or rehabilitate housing for low-
 156 income or very-low-income households as defined in s.
 157 420.9071(19) and (28) is exempt from the area requirement of
 158 this sub-subparagraph.

159 e.(I) If, during the first 10 business days of the state
 160 fiscal year, eligible tax credit applications for projects that
 161 provide homeownership opportunities for low-income or very-low-
 162 income households as defined in s. 420.9071(19) and (28) are
 163 received for less than the annual tax credits available for
 164 those projects, the Department of Economic Opportunity shall
 165 grant tax credits for those applications and shall grant
 166 remaining tax credits on a first-come, first-served basis for
 167 any subsequent eligible applications received before the end of
 168 the state fiscal year. If, during the first 10 business days of

169 the state fiscal year, eligible tax credit applications for
 170 projects that provide homeownership opportunities for low-income
 171 or very-low-income households as defined in s. 420.9071(19) and
 172 (28) are received for more than the annual tax credits available
 173 for those projects, the Department of Economic Opportunity shall
 174 grant the tax credits for those applications as follows:

175 (A) If tax credit applications submitted for approved
 176 projects of an eligible sponsor do not exceed \$200,000 in total,
 177 the credits shall be granted in full if the tax credit
 178 applications are approved.

179 (B) If tax credit applications submitted for approved
 180 projects of an eligible sponsor exceed \$200,000 in total, the
 181 amount of tax credits granted pursuant to sub-sub-sub-
 182 subparagraph (A) shall be subtracted from the amount of
 183 available tax credits, and the remaining credits shall be
 184 granted to each approved tax credit application on a pro rata
 185 basis.

186 (II) If, during the first 10 business days of the state
 187 fiscal year, eligible tax credit applications for projects other
 188 than those that provide homeownership opportunities for low-
 189 income or very-low-income households as defined in s.
 190 420.9071(19) and (28) are received for less than the annual tax
 191 credits available for those projects, the Department of Economic
 192 Opportunity shall grant tax credits for those applications and
 193 shall grant remaining tax credits on a first-come, first-served
 194 basis for any subsequent eligible applications received before
 195 the end of the state fiscal year. If, during the first 10
 196 business days of the state fiscal year, eligible tax credit

197 applications for projects other than those that provide
 198 homeownership opportunities for low-income or very-low-income
 199 households as defined in s. 420.9071(19) and (28) are received
 200 for more than the annual tax credits available for those
 201 projects, the Department of Economic Opportunity shall grant the
 202 tax credits for those applications on a pro rata basis.

203 3. Application requirements.-

204 a. Any eligible sponsor seeking to participate in this
 205 program must submit a proposal to the Department of Economic
 206 Opportunity which sets forth the name of the sponsor, a
 207 description of the project, and the area in which the project is
 208 located, together with such supporting information as is
 209 prescribed by rule. The proposal must also contain a resolution
 210 from the local governmental unit in which the project is located
 211 certifying that the project is consistent with local plans and
 212 regulations.

213 b. Any person seeking to participate in this program must
 214 submit an application for tax credit to the Department of
 215 Economic Opportunity which sets forth the name of the sponsor, a
 216 description of the project, and the type, value, and purpose of
 217 the contribution. The sponsor shall verify the terms of the
 218 application and indicate its receipt of the contribution, which
 219 verification must be in writing and accompany the application
 220 for tax credit. The person must submit a separate tax credit
 221 application to the Department of Economic Opportunity for each
 222 individual contribution that it makes to each individual
 223 project.

224 c. Any person who has received notification from the

225 Department of Economic Opportunity that a tax credit has been
 226 approved must apply to the department to receive the refund.
 227 Application must be made on the form prescribed for claiming
 228 refunds of sales and use taxes and be accompanied by a copy of
 229 the notification. A person may submit only one application for
 230 refund to the department within any 12-month period.

231 4. Administration.—

232 a. The Department of Economic Opportunity may adopt rules
 233 pursuant to ss. 120.536(1) and 120.54 necessary to administer
 234 this paragraph, including rules for the approval or disapproval
 235 of proposals by a person.

236 b. The decision of the Department of Economic Opportunity
 237 must be in writing, and, if approved, the notification shall
 238 state the maximum credit allowable to the person. Upon approval,
 239 the Department of Economic Opportunity shall transmit a copy of
 240 the decision to the Department of Revenue.

241 c. The Department of Economic Opportunity shall
 242 periodically monitor all projects in a manner consistent with
 243 available resources to ensure that resources are used in
 244 accordance with this paragraph; however, each project must be
 245 reviewed at least once every 2 years.

246 d. The Department of Economic Opportunity shall, in
 247 consultation with the statewide and regional housing and
 248 financial intermediaries, market the availability of the
 249 community contribution tax credit program to community-based
 250 organizations.

251 5. Expiration.—This paragraph expires June 30, 2025 ~~2015~~;
 252 however, any accrued credit carryover that is unused on that

253 date may be used until the expiration of the 3-year carryover
 254 period for such credit.

255 Section 2. Subsection (5) of section 220.183, Florida
 256 Statutes, is amended to read:

257 220.183 Community contribution tax credit.—

258 (5) EXPIRATION.—The provisions of this section, except
 259 paragraph (1)(e), shall expire and be void on June 30, 2025
 260 ~~2015~~.

261 Section 3. Subsection (6) of section 624.5105, Florida
 262 Statutes, is amended to read:

263 624.5105 Community contribution tax credit; authorization;
 264 limitations; eligibility and application requirements;
 265 administration; definitions; expiration.—

266 (6) EXPIRATION.—The provisions of this section, except
 267 paragraph (1)(e), shall expire and be void on June 30, 2025
 268 ~~2015~~.

269 Section 4. Paragraph (h) of subsection (22) and subsection
 270 (48) of section 420.507, Florida Statutes, is amended to read:

271 420.507 Powers of the corporation.—The corporation shall
 272 have all the powers necessary or convenient to carry out and
 273 effectuate the purposes and provisions of this part, including
 274 the following powers which are in addition to all other powers
 275 granted by other provisions of this part:

276 (22) To develop and administer the State Apartment
 277 Incentive Loan Program. In developing and administering that
 278 program, the corporation may:

279 (h) Establish, by rule, the procedure for ~~evaluating,~~
 280 ~~scoring, and~~ competitively evaluating and selecting ~~ranking~~ all

281 applications for funding based on the criteria set forth in s.
 282 420.5087(6)(c); determining actual loan amounts; making and
 283 servicing loans; and exercising the powers authorized in this
 284 subsection.

285 (48) To award ~~use up to 10 percent of~~ its annual
 286 allocation of low-income housing tax credits, nontaxable revenue
 287 bonds, and State Apartment Incentive Loan Program funds
 288 appropriated by the Legislature and available to allocate by
 289 request for proposals or other competitive solicitation and to
 290 reserve up to 10 percent of each allocation ~~funding~~ for high-
 291 priority affordable housing projects, such as housing to support
 292 economic development and job-creation initiatives, housing for
 293 veterans and their families, and other special needs populations
 294 in communities throughout the state as determined by the
 295 corporation on an annual basis.

296 Section 5. Paragraphs (c) and (f) of subsection (6) of
 297 section 420.5087, Florida Statutes, are amended to read:

298 420.5087 State Apartment Incentive Loan Program.—There is
 299 hereby created the State Apartment Incentive Loan Program for
 300 the purpose of providing first, second, or other subordinated
 301 mortgage loans or loan guarantees to sponsors, including for-
 302 profit, nonprofit, and public entities, to provide housing
 303 affordable to very-low-income persons.

304 (6) On all state apartment incentive loans, except loans
 305 made to housing communities for the elderly to provide for
 306 lifesafety, building preservation, health, sanitation, or
 307 security-related repairs or improvements, the following
 308 provisions shall apply:

309 (c) The corporation shall provide by rule for the
 310 establishment of a review committee ~~composed of the department~~
 311 ~~and corporation staff and shall establish by rule a scoring~~
 312 ~~system~~ for the competitive evaluation and selection ~~competitive~~
 313 ~~ranking~~ of applications submitted in this program, including,
 314 but not limited to, the following criteria:

315 1. Tenant income and demographic targeting objectives of
 316 the corporation.

317 2. Targeting objectives of the corporation which will
 318 ensure an equitable distribution of loans between rural and
 319 urban areas.

320 3. Sponsor's agreement to reserve the units for persons or
 321 families who have incomes below 50 percent of the state or local
 322 median income, whichever is higher, for a time period to exceed
 323 the minimum required by federal law or the provisions of this
 324 part.

325 4. Sponsor's agreement to reserve more than:

326 a. Twenty percent of the units in the project for persons
 327 or families who have incomes that do not exceed 50 percent of
 328 the state or local median income, whichever is higher; or

329 b. Forty percent of the units in the project for persons
 330 or families who have incomes that do not exceed 60 percent of
 331 the state or local median income, whichever is higher, without
 332 requiring a greater amount of the loans as provided in this
 333 section.

334 5. Provision for tenant counseling.

335 6. Sponsor's agreement to accept rental assistance
 336 certificates or vouchers as payment for rent.

337 7. Projects requiring the least amount of a state
 338 apartment incentive loan compared to overall project cost except
 339 that the share of the loan attributable to units serving
 340 extremely-low-income persons shall be excluded from this
 341 requirement.

342 8. Local government contributions and local government
 343 comprehensive planning and activities that promote affordable
 344 housing.

345 9. Project feasibility.

346 10. Economic viability of the project.

347 11. Commitment of first mortgage financing.

348 12. Sponsor's prior experience.

349 13. Sponsor's ability to proceed with construction.

350 14. Projects that directly implement or assist welfare-to-
 351 work transitioning.

352 15. Projects that reserve units for extremely-low-income
 353 persons.

354 16. Projects that include green building principles,
 355 storm-resistant construction, or other elements that reduce
 356 long-term costs relating to maintenance, utilities, or
 357 insurance.

358 17. Job-creation rate of the developer and general
 359 contractor, as provided in s. 420.507(47).

360 (f) The review committee established by corporation rule
 361 pursuant to this subsection shall make recommendations to the
 362 board of directors of the corporation regarding program
 363 participation under the State Apartment Incentive Loan Program.
 364 The corporation board shall make the final ~~ranking and the~~

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365 decisions regarding which applicants shall become program
 366 participants based on the scores received in the competitive
 367 process ranking, further review of applications, and the
 368 recommendations of the review committee. The corporation board
 369 shall approve or reject applications for loans and shall
 370 determine the tentative loan amount available to each applicant
 371 selected for participation in the program. The actual loan
 372 amount shall be determined pursuant to rule adopted pursuant to
 373 s. 420.507(22)(h).

374 Section 6. Section 420.511, Florida Statutes, is amended
 375 to read:

376 420.511 Strategic business plan; ~~strategie plan~~; annual
 377 report; audited financial statements.-

378 (1) The corporation shall develop a strategic business
 379 plan for the provision of affordable housing for the state. The
 380 plan shall not be inconsistent with the long-range program
 381 ~~strategie~~ plan prepared pursuant to subsection (2) and shall
 382 contain performance measures and specific performance targets
 383 for the following:

384 (a) The ability of low-income and moderate-income
 385 Floridians to access housing that is decent and affordable.

386 (b) The continued availability and affordability of
 387 housing financed by the corporation to target populations.

388 (c) The availability of affordable financing programs,
 389 including equity and debt products, and programs that reduce
 390 gaps in conventional financing, to increase individual access to
 391 housing and stimulate private production of affordable housing.

392 (d) The establishment and maintenance of efficiencies in

393 the delivery of affordable housing.

394 (e) Such other measures as directed by the corporation's
395 board of directors.

396
397 ~~The corporation shall also compile data on the stimulus of~~
398 ~~economic activity created by the affordable housing finance~~
399 ~~programs administered by the corporation.~~

400 (2) The corporation, in coordination ~~equal partnership~~
401 with the department, shall develop annually a long-range program
402 ~~strategie~~ plan for the provision of affordable housing in
403 Florida ~~as part of the department's agency strategic plan~~
404 required pursuant to chapter 186. In part, the plan shall
405 include provisions that maximize the abilities of the
406 corporation ~~and the department~~ to implement the state housing
407 strategy established under s. 420.0003, to respond to federal
408 housing initiatives, and to develop programs in a manner that is
409 more responsive to the needs of public and private partners. The
410 plan shall be developed on a schedule consistent with that
411 established by s. 186.021. For purposes of this act, the
412 executive director or his or her designee shall serve as the
413 corporation's representative to achieve a coordinated and
414 integrated planning relationship with the department.

415 (3)~~(a)~~ The corporation shall submit to the Governor and
416 the presiding officers of each house of the Legislature, within
417 2 months after the end of its fiscal year, a complete and
418 detailed report setting forth the corporation's state and
419 federal program accomplishments. The report shall include, but
420 not be limited to:

- 421 (a) The following tenant characteristics in the existing
 422 rental units financed through corporation-administered programs:
 423 1. The number of households served, delineated by income
 424 and age of the head of household.
 425 2. The number of households served in large, medium, and
 426 small counties as defined by 420.5087 and the extent to which
 427 geographic distribution has been achieved in accordance with s.
 428 420.5087.
 429 3. The number of farmworkers and commercial-fishing worker
 430 households served.
 431 4. The number of homeless households served.
 432 5. The number of special needs households served.
 433 6. By county, the average rent charged based on unit size.
 434 (b) The number of rental units to which resources have
 435 been allocated in the last fiscal year, including income and
 436 demographic restrictions.
 437 (c) The estimated average cost of producing units under
 438 each rental or homeownership unit financed under each program in
 439 the last fiscal year.
 440 (d) By county, the average sales price of homeownership
 441 units financed in the last fiscal year.
 442 (e) The number of households served by homeownership
 443 programs in the last fiscal year, including the income and age
 444 of the homeowner of each household.
 445 (f) The amount of economic stimulus created by the
 446 affordable housing finance programs administered by the
 447 corporation for the most recent year available.
 448 (g) For the State Apartment Incentive Loan Program (SAIL),

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449 a comprehensive list of all closed loans outstanding at the end
 450 of the most recent fiscal year, including, but not limited to,
 451 development name, city, county, developer, set-aside type, set-
 452 aside percentage, affordability term, total number of units,
 453 number of set-aside units, lien position, original loan amount,
 454 loan maturity date, loan balance at close of year, status of
 455 loan, rate of interest, and interest paid.

456 (h) For the Florida Affordable Housing Guarantee Program,
 457 a list of all guaranteed loans through the close of the most
 458 recent fiscal year, including, but not limited to, development
 459 name, city, county, developer, total number of units, issuer of
 460 the bonds, loan maturity date, participation in the United
 461 States Department of Housing and Urban Development Risk-Sharing
 462 Program, original guarantee amount, guarantee amount at close of
 463 fiscal year, status of loan guaranteed, and total outstanding
 464 Florida Housing Finance Corporation Affordable Housing Guarantee
 465 Revenue Bonds at the close of the most recent fiscal year.

466 (i) Any other information the corporation deems
 467 appropriate.

- 468 ~~1. Its operations and accomplishments;~~
- 469 ~~2. Its receipts and expenditures during its fiscal year in~~
 470 ~~accordance with the categories or classifications established by~~
 471 ~~the corporation for its operating and capital outlay purposes;~~
- 472 ~~3. Its assets and liabilities at the end of its fiscal~~
 473 ~~year and the status of reserve, special, or other funds;~~
- 474 ~~4. A schedule of its bonds outstanding at the end of its~~
 475 ~~fiscal year, together with a statement of the principal amounts~~
 476 ~~of bonds issued and redeemed during the fiscal year; and~~

477 ~~5. Information relating to the corporation's activities in~~
 478 ~~implementing the provisions of ss. 420.5087, 420.5088, and~~
 479 ~~420.5095.~~

480 ~~(b) The report shall include, but not be limited to:~~

481 ~~1. The number of people served, delineated by income, age,~~
 482 ~~family size, and racial characteristics.~~

483 ~~2. The number of units produced under each program.~~

484 ~~3. The average cost of producing units under each program.~~

485 ~~4. The average sales price of single-family units financed~~
 486 ~~under s. 420.5088.~~

487 ~~5. The average amount of rent charged based on unit size~~
 488 ~~on units financed under s. 420.5087.~~

489 ~~6. The number of persons in rural communities served under~~
 490 ~~each program.~~

491 ~~7. The number of farmworkers served under each program.~~

492 ~~8. The number of homeless persons served under each~~
 493 ~~program.~~

494 ~~9. The number of elderly persons served under each~~
 495 ~~program.~~

496 ~~10. The extent to which geographic distribution has been~~
 497 ~~achieved in accordance with the provisions of s. 420.5087.~~

498 ~~11. The success of the Community Workforce Housing~~
 499 ~~Innovation Pilot Program in meeting the housing needs of~~
 500 ~~eligible areas.~~

501 ~~12. Any other information the corporation deems~~
 502 ~~appropriate.~~

503 ~~(4) The corporation shall submit, within 6 months after~~
 504 ~~the end of its fiscal year, audited financial statements~~

505 prepared in accordance with generally accepted accounting
 506 principles which include all assets, liabilities, revenues, and
 507 expenses of the corporation, and a list of all bonds outstanding
 508 at the end of its fiscal year. ~~with the annual report required~~
 509 ~~by this section, a copy of an annual financial audit of its~~
 510 ~~accounts and records and an annual compliance~~ The audit must be
 511 ~~of its programs~~ conducted by an independent certified public
 512 accountant, performed in accordance with generally accepted
 513 auditing standards and government auditing standards, and
 514 incorporate all reports, including compliance reports, as
 515 required by such auditing standards.

516 ~~(5) Both the corporation's business plan and annual report~~
 517 ~~shall recognize the different fiscal periods under which the~~
 518 ~~corporation, the state, the Federal Government, and local~~
 519 ~~governments operate.~~

520 Section 7. Paragraph (b) of subsection (4) of section
 521 420.0003, Florida Statutes, is amended to read:

522 420.0003 State housing strategy.—

523 (4) IMPLEMENTATION.—The Department of Economic Opportunity
 524 and the Florida Housing Finance Corporation in carrying out the
 525 strategy articulated herein shall have the following duties:

526 (b) The agency strategic plan of the Department of
 527 Economic Opportunity shall include specific goals, objectives,
 528 and strategies that implement the housing policies in this
 529 section and shall include the strategic business plan for
 530 housing production prepared by the corporation pursuant to s.
 531 420.511.

532 Section 8. Section 420.0006, Florida Statutes, is amended

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533 to read:

534 420.0006 Authority to contract with corporation; contract
535 requirements; nonperformance.—The executive director of the
536 department shall contract, notwithstanding part I of chapter
537 287, with the Florida Housing Finance Corporation on a multiyear
538 basis to stimulate, provide, and foster affordable housing in
539 the state. The contract must incorporate the performance
540 measures required by s. 420.511 and must be consistent with the
541 provisions of the corporation's strategic business plan prepared
542 in accordance with s. 420.511. The contract must provide that,
543 in the event the corporation fails to comply with any of the
544 performance measures required by s. 420.511, the executive
545 director shall notify the Governor and shall refer the
546 nonperformance to the department's inspector general for review
547 and determination as to whether such failure is due to forces
548 beyond the corporation's control or whether such failure is due
549 to inadequate management of the corporation's resources.

550 Advances shall continue to be made pursuant to s. 420.0005
551 during the pendency of the review by the department's inspector
552 general. If such failure is due to outside forces, it shall not
553 be deemed a violation of the contract. If such failure is due to
554 inadequate management, the department's inspector general shall
555 provide recommendations regarding solutions. The Governor is
556 authorized to resolve any differences of opinion with respect to
557 performance under the contract and may request that advances
558 continue in the event of a failure under the contract due to
559 inadequate management. The Chief Financial Officer shall approve
560 the request absent a finding by the Chief Financial Officer that

561 continuing such advances would adversely impact the state;
 562 however, in any event the Chief Financial Officer shall provide
 563 advances sufficient to meet the debt service requirements of the
 564 corporation and sufficient to fund contracts committing funds
 565 from the State Housing Trust Fund so long as such contracts are
 566 in accordance with the laws of this state.

567 Section 9. Subsection (1) of section 420.504, Florida
 568 Statutes, is amended to read:

569 420.504 Public corporation; creation, membership, terms,
 570 expenses.—

571 (1) There is created within the Department of Economic
 572 Opportunity a public corporation and a public body corporate and
 573 politic, to be known as the "Florida Housing Finance
 574 Corporation." It is declared to be the intent of and
 575 constitutional construction by the Legislature that the Florida
 576 Housing Finance Corporation constitutes an entrepreneurial
 577 public corporation organized to provide and promote the public
 578 welfare by administering the governmental function of financing
 579 or refinancing housing and related facilities in Florida and
 580 that the corporation is not a department of the executive branch
 581 of state government within the scope and meaning of s. 6, Art.
 582 IV of the State Constitution, but is functionally related to the
 583 Department of Economic Opportunity in which it is placed. The
 584 executive function of state government to be performed by the
 585 executive director of the Department of Economic Opportunity in
 586 the conduct of the business of the Florida Housing Finance
 587 Corporation must be performed pursuant to a contract to monitor
 588 and set performance standards for the implementation of the

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589 business plan for the provision of housing approved for the
590 corporation as provided in s. 420.0006. This contract shall
591 include the performance standards for the provision of
592 affordable housing in Florida established in the strategic
593 business plan described in s. 420.511.

594 Section 10. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 563 Reporting Requirements for Economic Development Programs
SPONSOR(S): Rodríguez
TIED BILLS: IDEN./SIM. **BILLS:** SB 572

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee		Collins <i>AC</i>	West <i>RW</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

House Bill 563 directs the Department of Economic Opportunity (DEO) to create a project-based reporting system that uses a model created by the Office of Economic and Demographic Research (EDR) to determine the return on investment of economic development projects that receive state incentives. In addition, the bill requires DEO to maintain a website on which to publish information regarding state-incentivized economic development projects which will be updated twice per year and be easily accessible to the public. Information included on this website will be related to specific projects receiving state incentives and include the number of new jobs associated with each project, the wages of those new jobs, the amount of capital being invested in the state as part of the project, and the amount of state tax revenue generated by the project.

The bill also requires DEO to publish timeline information regarding Quick Action Closing Fund program recipients, which detail the status of each project between the time a business submits an application to DEO and when it receives an incentive award from the state.

The bill requires project-specific information to be published on the website within 48 hours following the expiration of confidentiality provided under s.288.075, F.S. Individual businesses may request a delay in the release of specific information should prematurely releasing such information impede their ability to locate, relocate, expand, or begin its business activities in the state.

Additionally, the bill amends s. 288.075, F.S., to allow information regarding the incremental amount of taxes paid for purposes of reporting the state's per project return on investment, or the aggregate of taxes paid per incentive program to be included in the annual incentives report required under s. 288.907, F.S.

Information regarding projects completed prior to July 1, 2013 shall be compiled and published on the website by DEO no later than July 1, 2014.

The bill may have an indeterminate negative fiscal impact on state funds to establish the portal on DEO's website.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Economic Development Incentives Application and Review

Enterprise Florida, Inc. (EFI), a nonprofit public-private partnership, serves as the state's flagship economic development organization, operating under a contract with DEO.¹ EFI works with businesses and economic development partners to determine whether projects are eligible for state economic development incentives. Once the project has been vetted by EFI and it has been determined that incentives are necessary to secure a deal, an incentive package is developed and sent to DEO for further review. Once the incentive package is finalized, DEO and other appropriate state bodies issue formal approvals.

According to EDR, EFI prospectively evaluates applications for each of the state's economic development incentive programs using RIMS II multipliers, a model developed by the U.S. Department of Commerce's Bureau of Economic Analysis. EDR is required to evaluate the model used by EFI for the prospective impact analysis of all qualified target industry tax refund projects (QTI), and to report such findings every 3 years.² The model evaluated by EDR and used by EFI for the QTI tax refund program is also used across all economic development incentive programs with the exception of the Innovation Incentive Program, which is not required by law to be evaluated for "economic benefits." Innovation Incentive Program projects are required to have a break-even "return on investment" (ROI) within a 20-year period except for certain exceptions.³

In 2010, EDR published its first report⁴ on the model used by EFI to evaluate QTI projects. In this report, EDR concluded that the model being utilized by EFI was not fully in compliance with statutory requirements that EFI's model evaluate ROI, defined as the gain in state revenues as a percentage of the state's investment. EDR determined that the model used by EFI needed changes in order to move incrementally closer to a true ROI. Enterprise Florida and EDR worked to redefine certain variables for the impact analysis in the interim period. In the report, EDR noted that a new ROI model will ultimately be required. Since the publication of the EDR report in 2010, the term "economic benefits" has replaced "return on investment" for the purposes of evaluating QTI in state statute.⁵ The next EDR report is due September 1, 2013.

Economic Development Incentives

Florida's competitive economic development incentives utilize tax refunds and performance-based cash awards. To receive an incentive, businesses must first enter into a contract with DEO which outlines performance expectations such as specific job creation goals, a schedule by which new jobs are to be created, and an average wage to be paid for the new jobs. After the business has commenced the project and begun hiring, it will submit an annual claim form and documentation of taxes paid. The state verifies the claim data with the company's quarterly reemployment assistance and payroll reports and verifies that tax documentation. If the state confirms the contractual obligations have been met and any required local financial support has been received, a refund check is sent to the business. Businesses

¹ Section 288.901, F.S.

² Section 288.106(4)(c)2., F.S.

³ Section 288.1089, F.S.

⁴ Office of Economic and Demographic Research, Tax Refund Program for Qualified Target Industry Businesses: A review of the methodology and model used in determining the state's return on investment, (9/1/2010), available at: <http://edr.state.fl.us/Content/special-research-projects/economic/ROI.pdf>, (last visited on February 8, 2013)

⁵ Section 288.005, F.S.

not filing claims or not meeting the performance obligations of its contract are terminated from the program. Only QTI businesses are eligible to receive pro-rated refunds in cases where contracted job or wage requirements are not fully met.

Businesses receiving economic development incentive grant awards must also enter into performance-based contracts with the state, which outlines specific milestones for performance and payment. All of the state's incentive grant awards contain penalties for non-performance, and the state may actively pursue the recapture of funds in cases where a business has failed to meet the terms of its contract.

The state has developed numerous economic development programs designed to incentivize private sector investment for the purpose of encouraging job growth. DEO awarded over \$111 million in tax refund and grant awards through existing incentive programs in FY 2012.⁶ Economic development tax credit and grant award incentives include, but are not limited to the following:

- Qualified Target Industry Program⁷
- Qualified Defense and Space Contractor Program⁸
- Brownfield Bonus Program⁹
- Manufacturing and Spaceport Investment Incentive¹⁰
- High Impact Performance Incentive¹¹
- Quick Action Closing Fund¹²
- Innovation Incentive Program¹³
- Quick Response Training Program¹⁴

Proposed Changes

The bill establishes an economic development incentive review and publication process to be implemented by DEO for the purpose of creating greater transparency and accountability within the state's economic development activities.

Economic Development Project Award Publication

DEO will maintain a website for the purpose of publishing information related to economic development incentives awarded to Florida businesses on a project-by-project basis. Within 48 hours of a project's award date, DEO will publish the following information on this website:

General Information

- Program or programs through which the state investment is being made;
- The maximum potential value of the state investment in the project;
- The target industry or industries¹⁵ involved, and any high impact sectors¹⁶ implicated by the project;

⁶ Enterprise Florida, Inc., 2012 Annual Incentives Report, (2012), available at: http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf, (last visited on February 11, 2013).

⁷ Section 288.106, F.S.

⁸ Section 288.1045, F.S.

⁹ Section 288.107, F.S.

¹⁰ Section 288.1083, F.S. The Manufacturing and Spaceport Investment Incentive was created in 2010 to serve as a means of relieving some of the sales tax burden on existing manufacturers that were not increasing their productive output enough to be eligible for the standard manufacturing and equipment sales tax exemption. This is a temporary program, with refunds available through Fiscal Year 2012.

¹¹ Section 288.108, F.S.

¹² Section 288.1088, F.S.

¹³ Section 288.1089, F.S.

¹⁴ Section 288.047, F.S. Quick Response Training Program awards are made directly to third parties on behalf of eligible businesses to be used for employer-driven training programs designed to assist new value-added businesses and to provide existing businesses the necessary training for expansion. This program is managed by Workforce Florida, Inc., a division within DEO.

- The county or counties that will be substantially impacted by the project; and
- The total value of local financial commitment and support for the project.

Beneficiary Business Information

- The location of the beneficiary business's headquarters, or, if a subsidiary, the headquarters of its parent company;
- The number of permanent full-time employees employed by the beneficiary business, including, the number of permanent full-time employees of the parent company (if applicable), and whether the beneficiary business qualifies as a small business under s. 288.703, F.S.;
- The North American Industry Classification System (NAICS) classifications of the type of business activities or products directly generated by the project;
- The project award date;
- The expected duration of the project; and
- The anticipated date when the beneficiary business will claim the last state investment.

Project Performance Goals

- The incremental direct jobs attributable to the project, identifying both the number of jobs to be generated and retained by the project, in addition to the lowest, highest and median annual wages associated with these jobs;
- The net indirect and induced incremental jobs in the state to be generated by the project, including the lowest, highest and median annual wages associated with these jobs, as well as a brief, but specific description of the methodology used to calculate these figures;
- The incremental direct capital investment in the state to be generated by the project;
- The net indirect and induced incremental capital investment in the state to be generated by the project, as well as a brief, but specific description of the methodology used to calculate these figures;
- The incremental direct tax revenue to the state to be paid by the beneficiary business; and
- The net indirect and induced incremental tax revenue to the state to be generated by the project, as well as a brief, but specific description of the methodology used to calculate these figures.

Other Publication Requirements

The bill requires DEO to review the information on this website on June 30 and December 31 of each year to ensure previously published information is up to date, to publish the total value of state investment disbursed to date for each project, and to publish verified results regarding each project's performance goals. Projects are not required to provide information needed for publication until the next scheduled update occurring at least 60 days after the project award date.

The bill also requires DEO to publish the names of the beneficiary businesses and a copy of incentive contracts or agreements entered into by the department. This information must be published within 48 hours after the expiration of the period of confidentiality provided under s. 288.075, F.S, and may be redacted to protect the beneficiary business from disclosure of information that remains confidential or exempt by law.

Within 48 hours after submitting any report of findings and recommendations concerning a business's failure to complete a QTI tax refund agreement, DEO must publish the report.

DEO is required by the bill to compile a list of economic development projects completed prior to July 1, 2013, and to publish information related to those prior to July 1, 2014.

¹⁵ Section 288.106(2)(q), F.S.

¹⁶ Section 288.108(6)(a), F.S.

Quick Action Closing Fund Timeline

The bill also requires that on June 30 and December 31 of each year, DEO will publish a timeline detailing the progress of each project funding under the state's Quick Action Closing Fund (QAC). DEO is responsible for publishing the date(s) upon which each of the following actions occurred:

- DEO received a completed QAC application;
- DEO's QAC application recommendation was transmitted to the Governor for approval or disapproval;
- The Legislature, where required by s. 288.1088, F.S., acted to approve or change the project;
- DEO and the beneficiary business entered into a contract for payment through QAC;
- EFI validated the beneficiary business's performance; and
- Funds were released to the beneficiary business.

Request to Delay Publication of Information

Prior to publication of information pertaining to a beneficiary business, DEO will provide the beneficiary business with an opportunity to request a delay in publication of some of the information required to be published under this bill. The beneficiary business must identify the information it wishes to prevent from being published, specify how long it requests the publication of the information to be delayed, and describe the circumstances necessitating the delay. Acceptable circumstances allowing for delayed publication of information may include those in which the premature revelation of business activities threatens the ability of the beneficiary business to purchase real property at fair market prices. DEO will evaluate and issue a finding regarding the beneficiary business's request to delay release of information to determine if the premature disclosure of the information would negatively affect the ability of the beneficiary business to locate, relocate, expand, or begin its business activities in the state. DEO will only delay publication of information which has been deemed justified by the finding, and will only delay its release for a period also deemed justified by the finding.

It is a second degree misdemeanor for any employee of DEO who violates the provisions of this bill.

Return on Investment Methodology

The bill directs the Office of Economic and Demographic Research (EDR) to annually establish a methodology for calculation of the state's return on investment, including formulas for indirect and induced job creation, incremental capital investment, and increased tax revenue. DEO will publish and use EDR's methodology and formulas as soon as they are available.

Amending Economic Development Confidentiality Statutes

The bill amends s. 288.075, F.S. to allow for the incremental amount of taxes paid to be included in the state's per project return on investment publications.

B. SECTION DIRECTORY:

Section 1: Creates s. 288.076, F.S. related to reporting requirements for economic development incentive programs.

Section 2: Amends s. 288.075, F.S. to limit applicability of an exemption from public records requirements to allow the disclosure of certain information pertaining to taxes paid by businesses participating in economic development incentive programs.

Section 3: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate negative fiscal impact on state funds to establish the portal on DEO's website.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill allows DEO to adopt rules regarding the administration of this section.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not use the terms "department" and "economic development agency" consistently. To clarify, "the department" would be a recognized term.

The definition of "project" is vague, broad, and as currently drafted encompasses, "any business undertaking by a beneficiary business." The definition should be changed to be consistent with s. 288.106(2)(m), F.S. The word "value" is used several times in the bill but it not defined and appears to be vague. Adding a definition or using a more specific term would clarify the bill's intent.

The bill does not use the terms "permanent full-time employees" and "jobs" consistently. The language as drafted is ambiguous and needs to be clarified.

As used in the bill, "business" refers to the "beneficiary business." This should be clarified.

Confidentiality language in the bill should be amended to avoid conflict with s. 288.075, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to reporting requirements for economic
 3 development programs; creating s. 288.076, F.S.;
 4 providing definitions; requiring the Department of
 5 Economic Opportunity to publish on a website specified
 6 information concerning state investment in economic
 7 development programs; providing procedures and
 8 requirements for reviewing, updating, and
 9 supplementing the published information; requiring the
 10 department to publish at specified dates twice per
 11 year a timeline demonstrating the progress of Quick
 12 Action Closing Fund projects; requiring the department
 13 to publish certain confidential information pertaining
 14 to beneficiary businesses upon expiration of a
 15 specified confidentiality period; requiring the
 16 department to publish certain reports concerning
 17 businesses that fail to complete tax refund agreements
 18 under the tax refund program for qualified target
 19 industry businesses; requiring the department to
 20 provide beneficiary businesses with the opportunity to
 21 delay publication of information; providing penalties;
 22 providing for construction and legislative intent;
 23 requiring the Office of Economic and Demographic
 24 Research to annually establish a methodology and
 25 formulas for specified calculations to be performed by
 26 the department; authorizing the department to adopt
 27 rules; amending s. 288.075, F.S.; limiting
 28 applicability of an exemption from public records

29 requirements to allow an economic development agency
 30 to disclose certain information pertaining to taxes
 31 paid by businesses participating in economic incentive
 32 programs; providing an effective date.

33

34 Be It Enacted by the Legislature of the State of Florida:

35

36 Section 1. Section 288.076, Florida Statutes, is created
 37 to read:

38 288.076 Return on investment reporting for economic
 39 development programs.-

40 (1) As used in this section, the term:

41 (a) "Beneficiary business" means a corporation,
 42 partnership, or person participating in a program administered
 43 by the department that has entered into an agreement with an
 44 economic development agency to receive a state investment.

45 (b) "Project" means any business undertaking by a
 46 beneficiary business.

47 (c) "Project award date" means the earlier of either the
 48 date a beneficiary business enters into an agreement with an
 49 economic development agency to receive a state investment, or
 50 the date an economic development agency awards a state
 51 investment to a beneficiary business, whether payable
 52 immediately, payable in the future, or payable upon satisfaction
 53 of agreed upon conditions.

54 (d) "State investment" means any state grants, tax
 55 exemptions, tax refunds, tax credits, or other state incentives
 56 provided to a business under a program administered by the

57 | department, including the capital investment tax credit under s.
 58 | 220.191.

59 | (2) The department shall maintain a website for the
 60 | purpose of publishing the information described in this section.
 61 | The information required to be published under this section must
 62 | be provided in a format accessible to the public which enables
 63 | users to search for and sort specific data and to easily view
 64 | and retrieve all data at once. Where specific identifying
 65 | information is temporarily withheld, such as the name of a
 66 | beneficiary business, the department shall assign a unique code
 67 | in order to enable the public to properly track information
 68 | pertaining to the business.

69 | (3) Within 48 hours after each project award date, the
 70 | department shall collect and publish the following information
 71 | pertaining to each project:

72 | (a) General information.—

73 | 1. The program or programs through which state investment
 74 | is being made.

75 | 2. The maximum potential value of the state investment in
 76 | the project.

77 | 3. The target industry or industries, and any high impact
 78 | sectors implicated by the project.

79 | 4. The county or counties that will be substantially
 80 | impacted by the project.

81 | 5. The total value of local financial commitment and
 82 | support for the project.

83 | (b) Beneficiary business information.—

84 | 1. The location of the beneficiary business's headquarters

85 | or, if a subsidiary, the headquarters of the parent company.

86 | 2. The number of permanent full-time employees employed by
 87 | the beneficiary business, including, where applicable, the
 88 | number of permanent full-time employees employed by the parent
 89 | company, and whether the beneficiary business qualifies as a
 90 | small business as defined in s. 288.703.

91 | 3. The North American Industry Classification System
 92 | classifications of the type of business activities or products
 93 | directly generated by the project.

94 | 4. The date of the project award date.

95 | 5. The expected duration of the project.

96 | 6. The anticipated date when the beneficiary business will
 97 | claim the last state investment.

98 | (c) Project performance goals.-

99 | 1. The incremental direct jobs attributable to the
 100 | project, identifying the number of jobs to be generated and the
 101 | number of jobs to be retained by the project, and the lowest
 102 | annual wage, highest annual wage, and median annual wage of
 103 | persons holding such jobs.

104 | 2. The net indirect and induced incremental jobs in the
 105 | state to be generated by the project, including the lowest
 106 | annual wage, highest annual wage, and median annual wage of
 107 | persons holding such jobs, and a brief but specific description
 108 | of the methodology used to perform this calculation, including
 109 | whether and how multipliers were used.

110 | 3. The incremental direct capital investment in the state
 111 | to be generated by the project.

112 | 4. The net indirect and induced incremental capital

113 | investment in the state to be generated by the project, and a
 114 | brief but specific description of the methodology used to
 115 | perform this calculation, including whether and how multipliers
 116 | were used.

117 | 5. The incremental direct tax revenue to the state to be
 118 | paid by the beneficiary business to the state.

119 | 6. The net indirect and induced incremental tax revenue
 120 | paid to the state to be generated by the project, and a brief
 121 | but specific description of the methodology used to perform this
 122 | calculation, including whether and how multipliers were used.

123 | (4) On June 30 and December 31 of each year, the
 124 | department shall:

125 | (a) Amend the information collected and published on its
 126 | website pursuant to paragraphs (3)(a) and (3)(b) to accurately
 127 | reflect any changes in the published information since the
 128 | project award date.

129 | (b) Publish on its website the total value of state
 130 | investment disbursed to date for each project.

131 | (c) Collect and publish on its website verified results
 132 | with respect to the performance goals published pursuant to
 133 | paragraph (3)(c) for each project.

134 |
 135 | However, a project is not required to comply with this
 136 | subsection until the next scheduled update occurring at least 60
 137 | days after the project award date.

138 | (5) On June 30 and December 31 of each year, the
 139 | department shall publish a timeline demonstrating the progress
 140 | of each project implemented under the Quick Action Closing Fund

141 pursuant to s. 288.1088. If any of the following has occurred,
 142 the department shall publish the date or dates upon which each
 143 occurred:

144 (a) The department received a completed application.

145 (b) The department's recommendation was transmitted to the
 146 Governor for approval or disapproval.

147 (c) The Legislature, where required by s. 288.1088, acted
 148 to approve or change the project.

149 (d) The department and the business entered into a
 150 contract for payment from the fund.

151 (e) The economic development agency validated the
 152 beneficiary business's performance.

153 (f) Funds were released to the beneficiary business.

154 (6)(a) Within 48 hours after expiration of the period of
 155 confidentiality provided under s. 288.075, the department shall
 156 publish both the name of the beneficiary business and a copy of
 157 the contract or agreement described in s. 288.061, redacted to
 158 protect the beneficiary business from disclosure of information
 159 that remains confidential or exempt by law.

160 (b) Within 48 hours after submitting any report of
 161 findings and recommendations made pursuant to s. 288.106(7)(d)
 162 concerning a business's failure to complete a tax refund
 163 agreement pursuant to the tax refund program for qualified
 164 target industry businesses, the department shall publish such
 165 report.

166 (7) For projects completed before July 1, 2013, the
 167 department shall compile and, by July 1, 2014, shall publish the
 168 information described in subsections (3), (4), and (5), to the

169 extent such information is available and applicable.

170 (8) Before publication of the information described in
 171 subsections (3) and (4), the economic development agency shall
 172 provide the beneficiary business an opportunity to request a
 173 delay in the publication of some, but in no case all, of the
 174 information that the department is required to publish. To make
 175 such a request, the beneficiary business must identify the
 176 information, specify how long it requests the publication of the
 177 information to be delayed, and describe the circumstances
 178 necessitating delayed publication of the information.

179 Circumstances necessitating delayed publication may include
 180 those circumstances in which the premature revelation of the
 181 business activities of the beneficiary business threatens the
 182 ability of the beneficiary business to purchase real property at
 183 market prices. Upon a finding by the economic development agency
 184 that the disclosure of information so described would impede the
 185 beneficiary business's efforts to locate, relocate, expand, or
 186 begin its business activities in the state, the department shall
 187 delay publication of only that information justified by the
 188 finding, and only for such time as is justified by the finding.

189 (9) Any person who is an employee of an economic
 190 development agency who violates this section commits a
 191 misdemeanor of the second degree, punishable as provided in s.
 192 775.082 or s. 775.083.

193 (10) The provisions of this section which restrict the
 194 department's publication of information are intended only to
 195 limit the information that the department may publish on its
 196 website and shall not be construed to create an exemption from

197 | public records requirements under s. 119.07(1) or s. 24(a), Art.
 198 | I of the State Constitution.

199 | (11) The Office of Economic and Demographic Research shall
 200 | annually establish a methodology for calculation of the state's
 201 | return on investment, including formulas for indirect and
 202 | induced job creation, incremental capital investment, and
 203 | increased tax revenue. The department shall publish the
 204 | methodology and formulas as soon as they are available and shall
 205 | use the methodology and formulas in collecting and publishing
 206 | the information required to be published by this section.

207 | (12) The department may adopt rules to administer this
 208 | section.

209 | Section 2. Paragraph (a) of subsection (6) of section
 210 | 288.075, Florida Statutes, is amended to read:

211 | 288.075 Confidentiality of records.—

212 | (6) ECONOMIC INCENTIVE PROGRAMS.—

213 | (a) The following information held by an economic
 214 | development agency pursuant to the administration of an economic
 215 | incentive program for qualified businesses is confidential and
 216 | exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 217 | Constitution for a period not to exceed the duration of the
 218 | incentive agreement, including an agreement authorizing a tax
 219 | refund or tax credit, or upon termination of the incentive
 220 | agreement:

221 | 1. The percentage of the business's sales occurring
 222 | outside this state and, for businesses applying under s.
 223 | 288.1045, the percentage of the business's gross receipts
 224 | derived from Department of Defense contracts during the 5 years

225 immediately preceding the date the business's application is
 226 submitted.

227 2. An individual employee's personal identifying
 228 information that is held as evidence of the achievement or
 229 nonachievement of the wage requirements of the tax refund, tax
 230 credit, or incentive agreement programs or of the job creation
 231 requirements of such programs.

232 3. The amount of any of the following which does not
 233 appear as the incremental amount of taxes paid for purposes of
 234 reporting the state's per project return on investment as
 235 required under s. 288.076 or as the aggregate of taxes paid per
 236 program for purposes of the annual incentives report required
 237 under s. 288.907:

- 238 a. Taxes on sales, use, and other transactions paid
- 239 pursuant to chapter 212;
- 240 b. Corporate income taxes paid pursuant to chapter 220;
- 241 c. Intangible personal property taxes paid pursuant to
- 242 chapter 199;
- 243 d. Insurance premium taxes paid pursuant to chapter 624;
- 244 e. Excise taxes paid on documents pursuant to chapter 201;
- 245 f. Ad valorem taxes paid, as defined in s. 220.03(1); or
- 246 g. State communications services taxes paid pursuant to
- 247 chapter 202.

248
 249 However, an economic development agency may disclose in the
 250 annual incentives report ~~required under s. 288.907~~ the aggregate
 251 amount of each tax identified in this subparagraph and paid by
 252 all businesses participating in each economic incentive program

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253 | and, for purposes of reporting the state's per project return on
254 | investment as required under s. 288.076, may disclose the
255 | incremental amount of taxes paid.

256 | Section 3. This act shall take effect July 1, 2013.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Economic Development &
 2 Tourism Subcommittee
 3 Representative Rodríguez, J. offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 288.076, Florida Statutes, is created
 8 to read:

9 288.076 Return on investment reporting for economic
 10 development programs.-

11 (1) As used in this section, the term:

12 (a) "Economic benefits" has the same meaning as defined in
 13 s. 288.005.

14 (b) "Participant business" means an employing unit, as
 15 defined in s. 443.036, that has entered into an agreement with
 16 the department to receive a state investment.

17 (c) "Jobs" has the same meaning as defined in s. 288.106.

18 (d) "Office" means the Office of Economic and Demographic
 19 Research.



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20 (e) "Project" has the same meaning as defined in s.
21 288.106.

22 (f) "Project award date" means the date a participant
23 business enters into an agreement with the department to receive
24 a state investment.

25 (g) "State investment" means any state grants, tax
26 exemptions, tax refunds, tax credits, or other state incentives
27 provided to a business under a program administered by the
28 department, including the capital investment tax credit under s.
29 220.191.

30 (2) The department shall maintain a website for the
31 purpose of publishing the information described in this section.
32 The information required to be published under this section must
33 be provided in a format accessible to the public which enables
34 users to search for and sort specific data as well as to easily
35 view and retrieve all data at once.

36 (3) Within 48 hours after expiration of the period of
37 confidentiality for project information deemed confidential and
38 exempt pursuant to s. 288.075, the department shall publish the
39 following information pertaining to each project:

40 (a) The projected economic benefits at the time of the
41 initial project award date.

42 (b) Project information.—

43 1. The program or programs through which state investment
44 is being made.

45 2. The maximum potential cumulative state investment in
46 the project.



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47 3. The target industry or industries, and any high impact
48 sectors implicated by the project.

49 4. The county or counties that will be impacted by the
50 project.

51 5. The total cumulative local financial commitment and in
52 kind support for the project.

53 (c) Participant business information.-

54 1. The location of the participant business's headquarters
55 or, if a subsidiary, the headquarters of the parent company.

56 2. The firm size class of the participant business, or
57 where owned by a parent company the firm size class of the
58 participant business' parent company, using the firm size
59 classes established by the United States Department of Labor
60 Bureau of Labor Statistics, and whether the participant business
61 qualifies as a small business as defined in s. 288.703.

62 3. The date of the project award.

63 4. The expected duration of the contract.

64 5. The anticipated dates when the participant business
65 will claim the first and last state investment.

66 (d) Project evaluation criteria.-

67 1. Economic benefits generated by the project;

68 2. The net indirect and induced incremental jobs to be
69 generated by the project;

70 3. The net indirect and induced incremental capital
71 investment to be generated by the project; and

72 4. The net indirect and induced incremental tax revenue
73 paid to the state to be generated by the project.

74 (e) Project performance goals.-



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75 1. The incremental direct jobs attributable to the
76 project, identifying the number of jobs generated and the number
77 of jobs retained.

78 2. The number of jobs generated and the number of jobs
79 retained by the project; for projects that commence after the
80 effective date of this act, the median annual wage of persons
81 holding such jobs.

82 3. The incremental direct capital investment in the state
83 generated by the project.

84 4. The incremental projected tax revenue to the state paid
85 by the participant business for the project.

86 (f) The total amount of state investment disbursed to the
87 participant business, itemized by incentive program, to date
88 under the terms of the contract.

89 (4) The department shall use methodology and formulas
90 established by the Office of Economic and Demographic Research
91 necessary to determine the economic benefits for each project.
92 The department shall calculate and publish on its website, the
93 economic benefits of each project within 48 hours of the
94 conclusion of the agreement between each participant business
95 and the department. The office shall provide a description of
96 the methodology and formulas used to determine the information
97 in this subsection to the department to be published within 48
98 hours on the department's website.

99 (5) No less frequently than annually, from the project
100 award date, the department shall:

101 (a) Publish verified results to update the information
102 described in paragraphs (3)(b), (3)(c), (3)(d), (3)(e), and



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103 (3)(f) to accurately reflect any changes in the published
104 information since the project award date.

105 (b) Publish on its website the date on which the
106 information collected and published for each project was last
107 updated.

108 (6) Annually, the department shall publish information
109 relating to the progress of the Quick Action Closing Fund
110 projects to include the average number of days between the date
111 upon which the department has received completed applications
112 and the date upon which projects were approved.

113 (7) Publication of documents.-

114 (a) Within 48 hours after expiration of the period of
115 confidentiality provided under s. 288.075, the department shall
116 publish the contract or agreement described in s. 288.061,
117 redacted to protect the participant business from disclosure of
118 information that remains confidential or exempt by law.

119 (b) Within 48 hours after submitting any report of
120 findings and recommendations made pursuant to s. 288.106(7)(d)
121 concerning a business's failure to complete a tax refund
122 agreement pursuant to the tax refund program for qualified
123 target industry businesses, the department shall publish such
124 report.

125 (8) For projects completed before October 1, 2013, the
126 department shall compile and, by October 1, 2014, shall publish
127 the information described in subsections (3), (4), and (5); to
128 the extent such information is available and applicable.

129 (9) The provisions of this section which restrict the
130 department's publication of information are intended only to



Amendment No.

131 limit the information that the department may publish on its
132 website and shall not be construed to create an exemption from
133 public records requirements under s. 119.07(1) or s. 24(a), Art.
134 I of the State Constitution.

135 (10) The department may adopt rules to administer this
136 section.

137

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T I T L E A M E N D M E N T

142

Remove everything before the enacting clause and insert:

143

A bill to be entitled

144

An act relating to reporting requirements for economic

45

development programs; creating s. 288.076, F.S.; providing

146

definitions; requiring the Department of Economic Opportunity to

147

publish on a website specified information concerning state

148

investment in economic development programs; requiring the

149

department to use methodology and formulas established by the

150

Office of Economic and Demographic Research for specified

151

calculations; requiring the office to provide a description of

152

methodology and formulas used to be posted on the department's

153

website; providing procedures and requirements for reviewing,

154

updating, and supplementing the published information; requiring

155

the department to annually publish the progress of Quick Action

156

Closing Fund projects; requiring the department to publish

157

certain confidential information pertaining to participant

158

businesses upon expiration of a specified confidentiality



Amendment No.

159 period; requiring the department to publish certain reports
160 concerning businesses that fail to complete tax refund
161 agreements under the tax refund program for qualified target
162 industry businesses; providing for construction and legislative
163 intent; authorizing the department to adopt rules; providing an
164 effective date.

165

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDTS 13-02 Development Permits
SPONSOR(S): Economic Development & Tourism Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Development & Tourism Subcommittee		West: <i>RW</i>	West: <i>RW</i>

SUMMARY ANALYSIS

The Division of Emergency Management (Division) is administratively housed within the Executive Office of the Governor. The Director of the Division is appointed by, and serves at the pleasure of, the Governor and is the head of the Division for all purposes. The Division is tasked with administering programs to rapidly apply all available aid to communities stricken by an emergency and serves as a liaison with federal agencies and other public and private agencies.

The State Emergency Management Act establishes the powers of the Division. It tasks the Division with maintaining a comprehensive statewide program of emergency management efforts that includes coordinating efforts with the Federal Government, local governments, other state agencies, school boards, and private agencies that have a role in emergency management.

The National Flood Insurance Program (NFIP) was created by Congress in 1968 to address a shortage of flood insurance available from private insurance markets following frequent widespread flooding along the Mississippi River. The NFIP is administered by the Federal Emergency Management Administration (FEMA) and has three main components: to provide flood insurance, improve floodplain management, and develop maps of flood hazard areas. House Bill 503 (2012) contained provisions that, if implemented, would impede the state's ability to enforce required components of NFIP's floodplain management regulations and jeopardize Florida's voluntary participation in NFIP.

The PCB makes technical changes to Sections 125.022 and 166.033, Florida Statutes, to bring state law into compliance with the federal requirements of NFIP.

The PCB does not appear to have a fiscal impact on state funds or local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Division of Emergency Management

The Division of Emergency Management (Division) is administratively housed within the Executive Office of the Governor. The Division is a separate budget entity, as provided in the General Appropriations Act and must prepare and submit a budget request in accordance with chapter 216, Florida Statutes. The Division is responsible for all professional, technical, and administrative support functions necessary to carry out its responsibilities. The Director of the Division is appointed by, and serves at the pleasure of, the Governor and is the head of the Division for all purposes. The Division is tasked with administering programs to rapidly apply all available aid to communities stricken by an emergency and serves as a liaison with federal agencies and other public and private agencies.¹

The State Emergency Management Act (Act)² establishes the powers of the Division. It tasks the Division with maintaining a comprehensive statewide program of emergency management efforts that includes coordinating efforts with the Federal Government, local governments, other state agencies, school boards, and private agencies that have a role in emergency management.³ The statewide program of emergency management includes but is not limited to:

- Preparation of a comprehensive statewide emergency management plan;
- Adopting standards and requirements for county emergency management plans;
- Assisting political subdivisions in preparing and maintaining emergency management plans;
- Ascertaining the requirements for equipment and supplies for use in an emergency;
- Instituting statewide public awareness programs;
- Coordinating federal, state, and local emergency management activities in advance of an emergency; and
- Using and employing the property, services, and resources within the state in accordance with the Act.⁴

After a disaster, the Division conducts damage assessment surveys and advises the Governor on whether to declare an emergency and seek federal relief funds. The Division maintains a primary Emergency Operations Center (EOC) in Tallahassee. The EOC serves as the communications and command center for reporting emergencies and coordinating state response activities. The Division also operates the State Warning Point, a state emergency communications center staffed 24 hours each day. The center maintains statewide communications with county emergency officials.⁵

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by Congress in 1968 as a result of passage of the National Flood Insurance Act to address economic hardships caused by flood disasters. Congress found that it was "...uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions; but a program of flood insurance with large-scale participation of the Federal Government and carried out to

¹ Section 14.2016, F.S.

² Section 252, F.S.

³ Section 252.35(1), F.S.

⁴ Section 252.35, F.S.

⁵ http://floridadisaster.org/about_the_division.htm

the maximum extent practicable by the private insurance industry is feasible.”⁶ In response, NFIP was created as a voluntary program that provided affordable flood insurance for people that lived in communities that adopted floodplain management regulations that meet or exceed federal standards.⁷ In most instances, homeowners buy flood policies from an insurance agent but in the event of a flood disaster the insurance company doesn’t pay the claim, the Federal Government does. NFIP provides coverage up to \$250,000 for the home and \$100,000 for personal possessions for private dwellings and up to \$500,000 for buildings and \$500,000 for property and belongings for commercial properties.

NFIP in Florida

- More than 450 communities are active participants in NFIP
- More than 2 million flood insurance policies
- More than \$471 billion in flood coverage⁸

In March, 2012, FEMA expressed concern that HB 503 (2012) was inconsistent with federal law⁹ that requires communities to review proposed developments to ensure they have received necessary permits pursuant to federal and state law. This requirement ensures that coordination occurs between levels of government on projects impacting flood plains and that all necessary permits have been secured before commencement of construction. FEMA warned that if HB 503 was implemented, Florida communities would be subject to challenge and face legal impediments to as they tried to comply with NFIP requirements. If communities could not meet requirements of NFIP, they could be subject to suspension from the program that would include the following consequences:

- No selling or renewing of flood insurance policies within a community that is not in compliance with NFIP requirements;
- Federal agencies would be prohibited from issuing grants, loans, or guarantees for the acquisition or construction of structures located in a Special Flood Hazard Area;
- Lending institutions may require private flood insurance for high-risk properties at significantly higher cost to the homeowner, assuming private insurance is even available in that area; and
- If a flood disaster occurs in a suspended community, many types of federal disaster assistance would not be available.¹⁰

Effects of Proposed Changes

The PCB requires counties and municipalities to attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development, including developments in mapped flood hazard areas. Such changes would ensure Florida is fully compliant with NFIP.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.022, F.S., to provide that counties will attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development, including developments in mapped flood hazard areas.

Section 2: Amends s. 166.033, F.S., to provide that municipalities will attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development, including developments in mapped flood hazard areas.

⁶ 42 U.S.C. § 4001(b)(1,2).

⁷ See 42 U.S.C. §§ 4012(c), 4022; 44 C.F.R. §§ 60.1, 60.2.

⁸ Letter from Major P. May (Regional Administrator, FEMA) to Governor Rick Scott, dated March 30, 2012; on file with Economic Development & Tourism Subcommittee.

⁹ 44 C.F.R. § 60.3(a)(2).

¹⁰ Id at 8.

Section 3: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

If a flood disaster occurs in a suspended community, many types of federal disaster assistance would not be available and could pose a financial hardship to that suspended community.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to development permits; amending ss.
 3 125.022 and 166.033, F.S.; requiring counties and
 4 municipalities to attach certain disclaimers and
 5 include certain permit conditions when issuing
 6 development permits; requiring counties and
 7 municipalities to demonstrate that applicable permits
 8 have been obtained before development in mapped flood
 9 hazard areas; providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Section 125.022, Florida Statutes, is amended
 14 to read:

15 125.022 Development permits.—When a county denies an
 16 application for a development permit, the county shall give
 17 written notice to the applicant. The notice must include a
 18 citation to the applicable portions of an ordinance, rule,
 19 statute, or other legal authority for the denial of the permit.
 20 As used in this section, the term "development permit" has the
 21 same meaning as in s. 163.3164. For any development permit
 22 application filed with the county after July 1, 2012, a county
 23 may not require as a condition of processing or issuing a
 24 development permit that an applicant obtain a permit or approval
 25 from any state or federal agency unless the agency has issued a
 26 final agency action that denies the federal or state permit
 27 before the county action on the local development permit.

28 Issuance of a development permit by a county does not in any way

29 create any rights on the part of the applicant to obtain a
 30 permit from a state or federal agency and does not create any
 31 liability on the part of the county for issuance of the permit
 32 if the applicant fails to obtain requisite approvals or fulfill
 33 the obligations imposed by a state or federal agency or
 34 undertakes actions that result in a violation of state or
 35 federal law. A county shall ~~may~~ attach such a disclaimer to the
 36 issuance of a development permit and shall ~~may~~ include a permit
 37 condition that all other applicable state or federal permits be
 38 obtained before commencement of the development. For all
 39 development in mapped flood hazard areas, the county must
 40 demonstrate that all other applicable state and federal permits
 41 have been obtained before the commencement of the development.
 42 This section does not prohibit a county from providing
 43 information to an applicant regarding what other state or
 44 federal permits may apply.

45 Section 2. Section 166.033, Florida Statutes, is amended
 46 to read:

47 166.033 Development permits.—When a municipality denies an
 48 application for a development permit, the municipality shall
 49 give written notice to the applicant. The notice must include a
 50 citation to the applicable portions of an ordinance, rule,
 51 statute, or other legal authority for the denial of the permit.
 52 As used in this section, the term "development permit" has the
 53 same meaning as in s. 163.3164. For any development permit
 54 application filed with the municipality after July 1, 2012, a
 55 municipality may not require as a condition of processing or
 56 issuing a development permit that an applicant obtain a permit

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57 or approval from any state or federal agency unless the agency
58 has issued a final agency action that denies the federal or
59 state permit before the municipal action on the local
60 development permit. Issuance of a development permit by a
61 municipality does not in any way create any right on the part of
62 an applicant to obtain a permit from a state or federal agency
63 and does not create any liability on the part of the
64 municipality for issuance of the permit if the applicant fails
65 to obtain requisite approvals or fulfill the obligations imposed
66 by a state or federal agency or undertakes actions that result
67 in a violation of state or federal law. A municipality shall ~~may~~
68 attach such a disclaimer to the issuance of development permits
69 and shall ~~may~~ include a permit condition that all other
70 applicable state or federal permits be obtained before
71 commencement of the development. For all development in mapped
72 flood hazard areas, the municipality must demonstrate that all
73 other applicable state and federal permits have been obtained
74 before the commencement of the development. This section does
75 not prohibit a municipality from providing information to an
76 applicant regarding what other state or federal permits may
77 apply.

78 Section 3. This act shall take effect July 1, 2013.